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PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 1st August, 1998/Shravana 10, 1920 (Saka)

The following Act of Parliament received the assent of the President on the 1st August, 1998, and is hereby published for general information:—

THE FINANCE (No. 2) ACT, 1998

(No. 21 OF 1998)

[1st August, 1998.]

An Act to give effect to the financial proposals of the Central Government for the financial year 1998-99.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance (No. 2) Act, 1998. Short title and commencement.
(2) Save as otherwise provided in this Act, sections 2 to 98 (except section 51) shall be deemed to have come into force on the 1st day of April, 1998.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 1998, income-tax shall be charged at the rates specified in Part I of the First Schedule.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding six hundred rupees, in addition to total income, and the total income exceeds forty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first forty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of forty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be.

43 of 1961.

(4) In cases in which tax has to be charged and paid under section 115-O of the Income-tax Act, the tax shall be charged and paid at the rate specified in that section.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act at the rates in force, the deduction shall be made at the rates specified in Part II of the First Schedule.

(6) In cases in which tax has to be deducted under sections 194C, 194G, 194-I, 194J and 194K of the Income-tax Act, the deduction shall be made at the rates specified in those sections.

(7) In cases in which tax has to be collected under section 206C or under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in that section or at the rate specified in Part II of the First Schedule, as the case may be.

(8) Subject to the provisions of sub-section (9), in cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed, at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so calculated, charged, deducted or computed at the rate or rates specified in Part III of the First Schedule:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be.

(9) In the cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding six hundred rupees, in addition to total income and the total income exceeds fifty thousand rupees, then, in calculating income-tax under the first proviso to sub-section (5) of section 132 of the Income-tax Act or in charging income-tax under sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of calculating, charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so calculated, charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be,

"advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income.

(10) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company, or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day of April, 1998, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section or in the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

3. In the Income-tax Act, save as otherwise expressly provided, and unless the context otherwise requires, the reference to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of October, 1998 by reference to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall also be made:

Substitution of
new
authorities

TABLE

(1)	(2)
1. Assistant Commissioner	Assistant Commissioner or Deputy Commissioner.
2. Assistant Director	Assistant Director or Deputy Director.
3. Deputy Commissioner	Joint Commissioner.
4. Deputy Director	Joint Director.

4. In section 2 of the Income-tax Act,—

Amendment
of section 2.

(a) in clause (7A), with effect from the 1st day of October, 1998,—

(i) for the words "Assistant Commissioner or Assistant Director", the words "Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director" shall be substituted;

(ii) for the words "Deputy Commissioner or Deputy Director", the words "Joint Commissioner or Joint Director" shall be substituted;

(b) in clause (9A), after the words "an Assistant Commissioner of Income-tax", the words "or a Deputy Commissioner of Income-tax" shall be inserted with effect from the 1st day of October, 1998;

(c) for clause (11), the following clause shall be substituted with effect from the 1st day of April, 1999, namely:—

'(11) "block of assets" means a group of assets falling within a class of assets comprising—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature,

in respect of which the same percentage of depreciation is prescribed;";

(d) in clause (19A), the words "or an Additional Commissioner of Income-tax" shall be omitted with effect from the 1st day of October, 1998;

(e) In clause (19C), the words "or an Additional Director of Income-tax" shall be omitted with effect from the 1st day of October, 1998;

(f) after clause (28B), the following clauses shall be inserted with effect from the 1st day of October, 1998, namely:—

'(28C) "Joint Commissioner" means a person appointed to be a Joint Commissioner of Income-tax or an Additional Commissioner of Income-tax under sub-section (1) of section 117;

(28D) "Joint Director" means a person appointed to be a Joint Director of Income-tax or an Additional Director of Income-tax under sub-section (1) of section 117;";

(g) In clause (30), the words, figures and brackets ", and for the purposes of sections 92, 93 and 168, includes a person who is not ordinarily resident within the meaning of sub-section (6) of section 6" shall be omitted with effect from the 1st day of April, 1999.

Amendment
of section 10.

5. In section 10 of the Income-tax Act, with effect from the 1st day of April, 1999,—

(a) clause (5A) shall be omitted;

(b) In clause (6), item (aa) of sub-clause (i) and sub-clauses (via), (vii), (ix) and (x) shall be omitted;

(c) In clause (15), in sub-clause (iv), in the *Explanation*, after clause (a), the following clause shall be inserted, namely:—

"(aa) the manufacture of computer software or recording of programme on any disc, tape, perforated media or other information device; or";

(d) clause (18A) shall be omitted;

(e) clauses (22) and (22A) shall be omitted;

(f) In clause (23C),—

(A) after sub-clause (iiia), the following sub-clauses shall be inserted, namely:—

"(iiiaa) any university or other educational institution existing solely for educational purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

(iiiaa) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, and which is wholly or substantially financed by the Government; or

(iiiaa) any university or other educational institution existing solely for educational purposes and not for purposes of profit if the aggregate annual receipts of such university or educational institution do not exceed the amount of annual receipts as may be prescribed; or

(iiiaa) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, if the aggregate annual receipts of such hospital or institution do not exceed the amount of annual receipts as may be prescribed; or";

(B) after sub-clause (v), the following sub-clauses shall be inserted, namely:—

"(vi) any university or other educational institution existing solely for educational purposes and not for purposes of profit, other than those mentioned in sub-clause (iiiaa) or sub-clause (iiiaa) and which may be approved by the prescribed authority; or

(via) any hospital or other institution for the reception and treatment of persons suffering from illness or mental defectiveness or for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for purposes of profit, other than those mentioned in sub-clause (iiiaa) or sub-clause (iiiaa) and which may be approved by the prescribed authority;";

(C) In the first, second, third, fifth and sixth provisos,—

(i) after the word "institution", the following shall be inserted, namely:—

"or any university or other educational institution or any hospital or other medical institution";

(ii) after the words, brackets and letter "or sub-clause (v)", the words, brackets and letters "or sub-clause (vi) or sub-clause (via)" shall be inserted;

(D) after the fourth proviso, the following proviso shall be inserted, namely:—

"Provided also that the exemption under sub-clause (vi) or sub-clause (via) shall not be denied in relation to any funds invested or deposited before the 1st day of June, 1998, otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11 if such funds do not continue to remain so invested or deposited after the 30th day of March, 2001.":

(g) in clause (23F),—

(a) the third and fourth provisos shall be omitted;

(b) in the *Explanation*, for clause (c), the following clauses shall be substituted, namely:—

"(c) 'venture capital undertaking' means such domestic company whose shares are not listed in a recognised stock exchange in India and which is engaged in the business of generation or generation and distribution of electricity or any other form of power or engaged in the business of providing telecommunication services or in the business of developing, maintaining and operating any infrastructure facility or engaged in the manufacture or production of such articles or things (including computer software) as may be notified by the Central Government in this behalf;

(d) 'infrastructure facility' means a road, highway, bridge, airport, port, rail system, a water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in sub-section (4A) of section 80-IA;";

(h) for clause (23G), the following clause shall be substituted, namely:—

"(23G) any income by way of dividends, other than dividends referred to in section 115-O, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company from investments made on or after the 1st day of June, 1998 by way of shares or long-term finance in any enterprise wholly engaged in the business of developing, maintaining and operating any infrastructure facility and which has been approved by the Central Government on an application made by it in accordance with the rules made in this behalf and which satisfies the prescribed conditions.

Explanation.—For the purposes of this clause,—

(a) 'infrastructure capital company' means such company as has made investments by way of acquiring shares or providing long-term finance to an enterprise wholly engaged in the business of developing, maintaining and operating infrastructure facility;

(b) 'infrastructure capital fund' means such fund operating under a trust deed registered under the provisions of the Registration Act, 1908 established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to an enterprise wholly engaged in the business of developing, maintaining and operating infrastructure facility,

(c) 'infrastructure facility' means—

(i) a road, highway, bridge, airport, port, rail system, a water supply project, irrigation project, sanitation and sewerage system or any other public facility of a similar nature as may be notified by the Board in this behalf in the Official Gazette and which fulfils the conditions specified in sub-section (4A) of section 80-IA;

(ii) a project for generation or generation and distribution of electricity or any other form of power where such project starts generating power on or after the 1st day of April, 1993;

(iii) a project for providing telecommunication services on or after the 1st day of April, 1995;

(iv) a project for housing which fulfils the conditions specified in sub-section (4F) of section 80-IA;

(d) 'long-term finance' shall have the meaning assigned to it in clause (viii) of sub-section (1) of section 36;";

(i) in clause (26), after the words, brackets and figures "North-Eastern Areas (Reorganisation) Act, 1971", the words "or in the Ladakh region of the State of Jammu and Kashmir" shall be inserted.

6. In section 18 of the Income-tax Act, for clause (i), the following clause shall be substituted with effect from the 1st day of April, 1999, namely:— Amendment of section 18.

"(i) in the case of an assessee whose income from salary, before allowing a deduction under this clause,—

(a) does not exceed one lakh rupees, a deduction of a sum equal to thirty-three and one-third per cent. of the salary or twenty-five thousand rupees, whichever is less;

16 of 1908.

81 of 1971.

(b) exceeds one lakh rupees but does not exceed five lakh rupees, a deduction of a sum of twenty thousand rupees.

Explanation.—For the purposes of this clause, where salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause;.”

Amendment of section 17. 7. In section 17 of the Income-tax Act, in clause (2), in the proviso, in clause (v), for the words “ten thousand rupees”, the words “fifteen thousand rupees” shall be substituted with effect from the 1st day of April, 1999.

Amendment of section 24. 8. In section 24 of the Income-tax Act, with effect from the 1st day of April, 1999,—

- (a) in sub-section (1), in clause (i), for the word “one-fifth”, the word “one-fourth” shall be substituted;
- (b) in the proviso to sub-section (2), for the word “fifteen”, the word “thirty” shall be substituted.

Amendment of section 32. 9. In section 32 of the Income-tax Act, in sub-section (1),—

(a) for the opening portion beginning with the words “In respect of depreciation of buildings, machinery, plant or furniture owned, wholly or partly,” and ending with the words and figures “section 34, be allowed—”, the following shall be substituted with effect from the 1st day of April, 1999, namely:—

“In respect of depreciation of—

(i) buildings, machinery, plant or furniture, being tangible assets;

(ii) know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets acquired on or after the 1st day of April, 1998,

owned, wholly or partly, by the assessee and used for the purposes of the business or profession, the following deductions shall be allowed—”;

(b) in the fourth proviso, for the words “plant or furniture”, the words “plant or furniture, being tangible asset or know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature, being intangible assets” shall be substituted with effect from the 1st day of April, 1999;

(c) after *Explanation 2*, the following *Explanations* shall be inserted with effect from the 1st day of April, 1999, namely:—

Explanation 3.—For the purposes of this sub-section, the expressions “assets” and “block of assets” shall mean—

(a) tangible assets, being buildings, machinery, plant or furniture;

(b) intangible assets, being know-how, patents, copyrights, trade marks, licences, franchises or any other business or commercial rights of similar nature.

Explanation 4.—For the purposes of this sub-section, the expression “know-how” means any industrial information or technique likely to assist in the manufacture or processing of goods or in the working of a mine, oil-well or other sources of mineral deposits (including searching for discovery or testing of deposits for the winning of access thereto);;

(d) after clause (ii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:—

(iii) in the case of any building, machinery, plant or furniture in respect of which depreciation is claimed and allowed under clause (i) and which is sold, discarded, demolished or destroyed in the previous year (other than the previous year in which it is first brought into use), the amount by which the moneys payable in respect of such building, machinery, plant or furniture, together with the amount of scrap value, if any, fall short of the written down value thereof:

Provided that such deficiency is actually written off in the books of the assessee.

Explanation.—For the purposes of this clause,—

(1) “moneys payable” in respect of any building, machinery, plant or furniture includes—

(a) any insurance, salvage or compensation moneys payable in respect thereof;

(b) where the building, machinery, plant or furniture is sold, the price for which it is sold,

so, however, that where the actual cost of a motor car is, in accordance with the proviso to clause (1) of section 43, taken to be twenty-five thousand rupees, the moneys payable in respect of such motor car shall be taken to be a sum which bears to the amount for which the motor car is sold or, as the case may be, the amount of any insurance, salvage or compensation moneys payable in respect thereof (including the amount of scrap value, if any) the same proportion as the amount of twenty-five thousand rupees bears to the actual cost of the motor car to the assessee as it would have been computed before applying the said proviso;

(2) "sold" includes a transfer by way of exchange or a compulsory acquisition under any law for the time being in force but does not include a transfer, in a scheme of amalgamation, of any asset by the amalgamating company to the amalgamated company where the amalgamated company is an Indian company;

(e) In the fourth proviso, after the words "referred to in", the words, brackets and figures "clause (xiii) and clause (xiv) of section 47 or" shall be inserted with effect from the 1st day of April, 1999.

10. After section 33AB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:-

Insertion of
new section
33ABA.

'33ABA. (1) Where an assessee is carrying on business consisting of the prospecting for, or extraction or production of, petroleum or natural gas or both in India and in relation to which the Central Government has entered into an agreement with such assessee for such business, has before the end of the previous year-

Site
Restoration
Fund.

(a) deposited with the State Bank of India any amount or amounts in an account (hereafter in this section referred to as the special account) maintained by the assessee with that Bank in accordance with, and for the purposes specified in, a scheme (hereafter in this section referred to as the scheme) approved in this behalf by the Government of India in the Ministry of Petroleum and Natural Gas; or

(b) deposited any amount in an account (hereafter in this section referred to as the Site Restoration Account) opened by the assessee in accordance with, and for the purposes specified in, a scheme framed by the Ministry referred to in clause (a) (hereafter in this section referred to as the deposit scheme),

the assessee shall, subject to the provisions of this section, be allowed a deduction (such deduction being allowed before the loss, if any, brought forward from earlier years is set off under section 72) of-

(i) a sum equal to the amount or the aggregate of the amounts so deposited; or

(ii) a sum equal to twenty per cent. of the profits of such business (computed under the head "Profits and gains of business or profession" before making any deduction under this section),

whichever is less:

Provided that where such assessee is a firm, or any association of persons or any body of individuals, the deduction under this section shall not be allowed in the computation of the income of any partner or, as the case may be, any member of such firm, association of persons or body of individuals:

Provided further that where any deduction, in respect of any amount deposited in the special account, or in the Site Restoration Account, has been allowed under this sub-section in any previous year, no deduction shall be allowed in respect of such amount in any other previous year:

Provided also that any amount credited in the special account or the Site Restoration Account by way of interest shall be deemed to be a deposit.

(2) The deduction under sub-section (1) shall not be admissible unless the accounts of such business of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and the assessee furnishes, along with his return of income, the report of such audit in the prescribed form duly signed and verified by such accountant:

Provided that in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this sub-section if such assessee gets the accounts of such business audited under such law and furnishes the report of the audit as required under such other law and a further report in the form prescribed under this sub-section.

(3) Any amount standing to the credit of the assessee in the special account or the Site Restoration Account shall not be allowed to be withdrawn except for the purposes specified in the scheme or, as the case may be, in the deposit scheme.

(4) Notwithstanding anything contained in sub-section (3), no deduction under sub-section (1) shall be allowed in respect of any amount utilised for the purchase of—

(a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule.

(5) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is withdrawn on closure of the account during any previous year by the assessee, the amount so withdrawn from the account, as reduced by the amount, if any, payable to the Central Government by way of profit or production share as provided in the agreement referred to in section 42, shall be deemed to be the profits and gains of business or profession of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.

Explanation.—Where any amount is withdrawn on closure of the account in a previous year in which the business carried on by the assessee is no longer in existence, the provisions of this sub-section shall apply as if the business is in existence in that previous year.

(6) Where any amount standing to the credit of the assessee in the special account or in the Site Restoration Account is utilised by the assessee for the purposes of any expenditure in connection with such business in accordance with the scheme or the deposit scheme, such expenditure shall not be allowed in computing the income chargeable under the head "Profits and gains of business or profession".

(7) Where any amount, standing to the credit of the assessee in the special account or in the Site Restoration Account, which is released during any previous year by the State Bank of India or which is withdrawn by the assessee from the Site Restoration Account for being utilised by the assessee for the purposes of such business in accordance with the scheme or the deposit scheme is not so utilised, either wholly or in part, within that previous year, the whole of such amount or, as the case may be, part thereof which is not so utilised shall be deemed to be profits and gains of business and accordingly chargeable to income-tax as the income of that previous year:

Provided that this sub-section shall not apply in a case where such amount is released during any previous year at the closure of the account in the circumstances specified in clauses (b), (c) and (d) of sub-section (3).

(8) Where any asset acquired in accordance with the scheme or the deposit scheme is sold or otherwise transferred in any previous year by the assessee to any person at any time before the expiry of eight years from the end of the previous year in which it was acquired, such part of the cost of such asset as is relatable to the deduction allowed under sub-section (7) shall be deemed to be the profits and gains of business or profession of the previous year in which the asset is sold or otherwise transferred and shall accordingly be chargeable to income-tax as the income of that previous year:

Provided that nothing in this sub-section shall apply—

(i) where the asset is sold or otherwise transferred by the assessee to Government, a local authority, a corporation established by or under a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956; or

(ii) where the sale or transfer of the asset is made in connection with the succession of a firm by a company in the business or profession carried on by the firm as a result of which the firm sells or otherwise transfers to the company any asset and the scheme or the deposit scheme continues to apply to the company in the manner applicable to the firm.

Explanation.—The provisions of clause (ii) of the proviso shall apply only where—

(i) all the properties of the firm relating to the business or profession immediately before the succession become the properties of the company;

(ii) all the liabilities of the firm relating to the business or profession immediately before the succession become the liabilities of the company; and

(iii) all the shareholders of the company were partners of the firm immediately before the succession.

(9) The Central Government may, if it considers necessary or expedient so to do, by notification in the Official Gazette, direct that the deduction allowable under this section shall not be allowed after such date as may be specified therein.

Explanation.—For the purposes of this section,—

(a) "State Bank of India" means the State Bank of India constituted under the State Bank of India Act, 1955;

(b) the expression "amount standing to the credit of the assessee in the special account or the Site Restoration Account" includes interest accrued to such accounts.

11. In section 35 of the Income-tax Act, in sub-section (2AB), after clause (4), the following clause shall be inserted, namely:— Amendment of section 35.

"(5) No deduction shall be allowed in respect of the expenditure referred to in clause (1) which is incurred after the 31st day of March, 2000."

12. In section 35A of the Income-tax Act, in sub-section (1), after the words, figures and letters "after the 28th day of February, 1966", the words, figures and letters "but before the 1st day of April, 1998" shall be inserted with effect from the 1st day of April, 1999. Amendment of section 35A.

13. In section 35AB of the Income-tax Act, in sub-section (1), for the words "in any previous year", the words, letters and figures "in any previous year relevant to the assessment year commencing on or before the 1st day of April, 1998" shall be substituted with effect from the 1st day of April, 1999. Amendment of section 35AB.

14. In section 35D of the Income-tax Act, with effect from the 1st day of April, 1999,—

(a) in sub-section (1), the following proviso shall be inserted, namely:— Amendment of section 35D.

"Provided that where an assessee incurs after the 31st day of March, 1998, any expenditure specified in sub-section (2), the provisions of this sub-section shall have effect as if for the words "an amount equal to one-tenth of such expenditure for each of the ten successive previous years", the words "an amount equal to one-fifth of such expenditure for each of the five successive previous years" had been substituted."

(b) in sub-section (3), before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided that where the aggregate amount of expenditure referred to in sub-section (2) is incurred after the 31st day of March, 1998, the provisions of this sub-section shall have effect as if for the words "two and one-half per cent.", the words "five per cent." had been substituted."

15. In section 37 of the Income-tax Act, after sub-section (1), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:— Amendment of section 37.

"*Explanation.*—For the removal of doubts, it is hereby declared that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure."

16. In section 41 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:— Amendment of section 41.

"(2) Where any building, machinery, plant or furniture,—

(a) which is owned by the assessee;

(b) in respect of which depreciation is claimed under clause (i) of sub-section (1) of section 32; and

(c) which was or has been used for the purposes of business,

is sold, discarded, demolished or destroyed and the moneys payable in respect of such building, machinery, plant or furniture, as the case may be, together with the amount of scrap value, if any, exceeds the written down value, so much of the excess as does not exceed the difference between the actual cost and the written down value shall be chargeable to income-tax as income of the business of the previous year in which the moneys payable for the building, machinery, plant or furniture became due.

Explanation.—Where the moneys payable in respect of the building, machinery, plant or furniture referred to in this sub-section become due in a previous year in which the business for the purpose of which the building, machinery, plant or furniture was being used is no longer in existence, the provision of this sub-section shall apply as if the business is in existence in that previous year.”.

Amendment of section 42. 17. Section 42 of the Income-tax Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following shall be inserted with effect from the 1st day of April, 1999, namely:—

“(2) Where the business of the assessee consisting of the prospecting for or extraction or production of petroleum and natural gas is transferred wholly or partly or any interest in such business is transferred in accordance with the agreement referred to in sub-section (1), subject to the provisions of the said agreement and where the proceeds of the transfer (so far as they consist of capital sums)—

(a) are less than the expenditure incurred remaining unallowed, a deduction equal to such expenditure remaining unallowed, as reduced by the proceeds of transfer, shall be allowed in respect of the previous year in which such business or interest, as the case may be, is transferred;

(b) exceed the amount of the expenditure incurred remaining unallowed, so much of the excess as does not exceed the difference between the expenditure incurred in connection with the business or to obtain interest therein and the amount of such expenditure remaining unallowed, shall be chargeable to Income-tax as profits and gains of the business in the previous year in which the business or interest therein, whether wholly or partly, had been transferred:

Provided that in a case where the provisions of this clause do not apply, the deduction to be allowed for expenditure incurred remaining unallowed shall be arrived at by subtracting the proceeds of transfer (so far as they consist of capital sums) from the expenditure remaining unallowed.

Explanation.—Where the business or interest in such business is transferred in a previous year in which such business carried on by the assessee is no longer in existence, the provisions of this clause shall apply as if the business is in existence in that previous year;

(c) are not less than the amount of the expenditure incurred remaining unallowed, no deduction for such expenditure shall be allowed in respect of the previous year in which the business or interest in such business is transferred or in respect of any subsequent year or years:

Provided that in a scheme of amalgamation, the amalgamating company sells or otherwise transfers the business to the amalgamated company (being an Indian company), the provisions of this sub-section—

(i) shall not apply in the case of the amalgamating company; and

(ii) shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the latter had not transferred the business or interest in the business.”.

Amendment of section 43. 18. In section 43 of the Income-tax Act, in clause (1),—

(a) after *Explanation 8*, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1994, namely:—

“Explanation 9.—For the removal of doubts, it is hereby declared that where an asset is or has been acquired on or after the 1st day of March, 1994 by an assessee, the actual cost of asset shall be reduced by the amount of duty of excise or the additional duty leviable under section 3 of the Customs Tariff Act, 1975 in respect of which a claim of credit has been made and allowed under the Central Excise Rules, 1944.”;

(b) after *Explanation 9*, the following *Explanation* shall be inserted with effect from the 1st day of April, 1999, namely:—

“Explanation 10.—Where a portion of the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or a State Government or any authority established under any law or by any other person, in the form of a subsidy or grant or reimbursement (by whatever name called), then, so much of the cost as is relatable to such subsidy or grant or reimbursement shall not be included in the actual cost of the asset to the assessee:

Provided that where such subsidy or grant or reimbursement is of such nature that it can not be directly relatable to the asset acquired, so much of the amount which bears to the total subsidy or reimbursement or grant the same proportion as such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee.”.

Amendment of section 43B. 19. In section 43B of the Income-tax Act, after clause (e), in the proviso, after the words, brackets and letter “or clause (d)”, the words, brackets and letter “or clause (e)” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1997.

51 of 1975.

20. In section 44AA of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 1999,— Amendment of section 44AA.

(a) for the words "forty thousand", at both the places where they occur, the words "one lakh twenty thousand" shall be substituted;

(b) for the words "five hundred thousand", at both the places where they occur, the words "ten lakh" shall be substituted.

21. In section 47 of the Income-tax Act,—

Amendment of section 47.

(a) in clause (xi), for the figures, letters and words "31st day of December, 1997", the figures, letters and words "31st day of December, 1998" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;

(b) after clause (xii), the following clauses shall be inserted with effect from the 1st day of April, 1999, namely:—

"(xiii) where a firm is succeeded by a company in the business carried on by it as a result of which the firm sells or otherwise transfers any capital asset or intangible asset to the company:

Provided that—

(a) all the assets and liabilities of the firm relating to the business immediately before the succession become the assets and liabilities of the company;

(b) all the partners of the firm immediately before the succession become the shareholders of the company in the same proportion in which their capital accounts stood in the books of the firm on the date of succession;

(c) the partners of the firm do not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company; and

(d) the aggregate of the shareholding in the company of the partners of the firm is not less than fifty per cent. of the total voting power in the company and their shareholding continues to be as such for a period of five years from the date of the succession;

(xiv) where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any capital asset or intangible asset to the company:

Provided that—

(a) all the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;

(b) the shareholding of the sole proprietor in the company is not less than fifty per cent. of the total voting power in the company and his shareholding continues to remain as such for a period of five years from the date of the succession; and

(c) the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;

(xv) any transfer in a scheme for lending of any securities under an agreement or arrangement, which the assessee has entered into with the borrower of such securities and which is subject to the guidelines issued by the Securities and Exchange Board of India, established under section 3 of the Securities and Exchange Board of India Act, 1992, in this regard."

15 of 1992.

22. In section 47A of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 1999, namely:— Amendment of section 47A.

"(3) Where any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) of section 47 are not complied with, the amount of profits or gains arising from the transfer of such capital asset or intangible asset not charged under section 45 by virtue of conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) of section 47 shall be deemed to be the profits and gains chargeable to tax of the successor company for the previous year in which the requirements of the proviso to clause (xiii) or the proviso to clause (xiv), as the case may be, are not complied with."

23. After section 50 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1998, namely:— Insertion of new section 50A.

"50A. Where the capital asset is an asset in respect of which a deduction on account of depreciation under clause (i) of sub-section (1) of section 32 has been obtained by the assessee in any previous year, the provisions of sections 48 and 49 shall apply subject to the modification that the written down value, as defined in clause (d) of section 43, of the asset, as adjusted, shall be taken as the cost of acquisition of the asset." Special provision for cost of acquisition in case of depreciable asset.

Amendment
of section
54H.

24. In section 54H of the Income-tax Act, after the figures and letter "54D", the figures and letters "54EA, 54EB" shall be inserted with effect from the 1st day of April, 1999.

Amendment
of section
69C.

25. In section 69C of the Income-tax Act, the following proviso shall be inserted at the end with effect from the 1st day of April, 1999, namely:—

"Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income."

Insertion of
new section
71B.

26. After section 71A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Carry forward
and set-off of
loss from
house
property.

'71B. Where for any assessment year the net result of computation under the head "Income from house property" is a loss to the assessee and such loss cannot be or is not wholly set-off against income from any other head of income in accordance with the provisions of section 71, so much of the loss as has not been so set-off or where he has no income under any other head, the whole loss shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year and—

(i) be set-off against the income from house property assessable for that assessment year; and

(ii) the loss, if any, which has not been set-off wholly, the amount of loss not so set-off,

shall be carried forward to the following assessment year, not being more than eight assessment years immediately succeeding the assessment year for which the loss was first computed.'

Amendment
of section
72A.

27. In section 72A of the Income-tax Act, after sub-section (3) and before the *Explanation*, the following shall be inserted with effect from the 1st day of April, 1999, namely:—

'(4) Where there has been reorganisation of business, whereby, a firm is succeeded by a company fulfilling the conditions laid down in clause (xiii) of section 47 or a proprietary concern is succeeded by a company fulfilling the conditions laid down in clause (xiv) of section 47, then, notwithstanding anything contained in any other provisions of this Act, the accumulated loss and the unabsorbed depreciation of the predecessor firm or the proprietary concern, as the case may be, shall be deemed to be the loss or allowance for depreciation of the successor company for the previous year in which business reorganisation was effected and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly:

Provided that if any of the conditions laid down in the proviso to clause (xiii) or the proviso to clause (xiv) to section 47 are not complied with, the set-off of loss or allowance of depreciation made in any previous year in the hands of the successor company, shall be deemed to be the income of the company chargeable to tax in the year in which such conditions are not complied with.

(5) For the purposes of sub-section (4),—

(a) "accumulated loss" means so much of the loss of the predecessor firm or the proprietary concern, as the case may be, under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such predecessor firm or the proprietary concern would have been entitled to carry forward and set off under the provisions of section 72 if the reorganisation of business had not taken place;

(b) "unabsorbed depreciation" means so much of the allowance for depreciation of the predecessor firm or the proprietary concern, as the case may be, which remains to be allowed and which would have been allowed to the predecessor firm or the proprietary concern, as the case may be, under the provisions of this Act, if the reorganisation of business had not taken place.'

28. For sections 80DD and 80DDA of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1999, namely:—

Substitution of new section for sections 80DD and 80DDA.

'80DD. (1) In computing the total income of an assessee who is a resident of India, being an individual or a Hindu undivided family, there shall be deducted, in accordance with and subject to the provisions of this section, the amount—

Deduction in respect of maintenance including medical treatment of handicapped dependant.

(a) of expenditure incurred by way of medical treatment (including nursing), training and rehabilitation of a handicapped dependant; or

(b) paid or deposited under any scheme framed in this behalf by the Life Insurance Corporation or Unit Trust of India subject to the conditions specified in sub-section (2) and approved by the Board in this behalf for the maintenance of handicapped dependant,

out of his income chargeable to tax:

Provided that no such amount shall exceed forty thousand rupees in the aggregate under clause (a) or clause (b) or both.

(2) The deduction under clause (b) of sub-section (1) shall be allowed only if the following conditions are fulfilled, namely:—

(a) the scheme referred to in clause (b) of sub-section (1) provides for payment of annuity or lump sum amount for the benefit of a handicapped dependant in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made;

(b) the assessee nominates either the handicapped dependant or any other person or a trust to receive the payment on his behalf, for the benefit of the handicapped dependant.

(3) If the handicapped dependant predeceases the individual or the member of the Hindu undivided family referred to in sub-section (2), an amount equal to the amount paid or deposited under clause (b) of sub-section (1) shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

(4) In this section,—

(a) "Government hospital" includes a departmental dispensary whether full-time or part-time established and run by a Department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants;

(b) "handicapped dependant" means a person who—

(i) is a relative of the individual or, as the case may be, is a member of the Hindu undivided family and is not dependant on any person other than such individual or Hindu undivided family for his support or maintenance; and

(ii) is suffering from a permanent physical disability (including blindness) or is subject to mental retardation, being a permanent physical disability or mental retardation specified in the rules made by the Board for the purposes of this section, which is certified by a physician, a surgeon, an oculist or a psychiatrist, as the case may be, working in a Government hospital, and which has the effect of reducing considerably such person's capacity for normal work or engaging in a gainful employment or occupation;

(c) "Life Insurance Corporation" shall have the same meaning as in clause (ii) of sub-section (8) of section 88;

(d) "Unit Trust of India" means the Unit Trust of India established under the Unit Trust of India Act, 1963.

62 of 1963.

29. In section 80G of the Income-tax Act, with effect from the 1st day of April, 1999, namely:—

Amendment of section 80G.

(a) in sub-section (1), in clause (i), after the word, brackets, figures and letters "sub-clause (iiihf)", the words, brackets, figures and letters "or sub-clause (iiihg) or sub-clause (iiihh)" shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iiihf), the following sub-clauses shall be inserted, namely:—

"(iiihg) the National Sports Fund to be set up by the Central Government; or

(iiihh) the National Cultural Fund set up by the Central Government; or";

(c) in sub-section (5), in clause (i), the words, brackets, figures and letter "or clause (22) or clause (22A)" shall be omitted.

30. After section 80G of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Insertion of new section 80GG.

Deductions in respect of rents paid.

'80GG. In computing the total income of an assessee, not being an assessee having any income falling within clause (13A) of section 10, there shall be deducted any expenditure incurred by him in excess of ten per cent. of his total income towards payment of rent (by whatever name called) in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence, to the extent to which such excess expenditure does not exceed two thousand rupees per month or twenty-five per cent. of his total income for the year, whichever is less, and subject to such other conditions or limitations as may be prescribed, having regard to the area or place in which such accommodation is situated and other relevant considerations:

Provided that nothing in this section shall apply to an assessee in any case where any residential accommodation is—

(i) owned by the assessee or by his spouse or minor child or, where such assessee is a member of a Hindu undivided family, by such family, at the place where he ordinarily resides or performs duties of his office or employment or carries on his business or profession; or

(ii) owned by the assessee at any other place, being accommodation in the occupation of the assessee, the value of which is to be determined under sub-clause (i) of clause (a) or, as the case may be, clause (b) of sub-section (2) of section 23.

Explanation.—In this section, the expressions "ten per cent. of his total income" and "twenty-five per cent. of his total income" shall mean ten per cent. or twenty-five per cent., as the case may be, of the assessee's total income before allowing deduction for any expenditure under this section.

Insertion of new section 80HHBA.

31. After section 80HHB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Deduction in respect of profits and gains from housing projects in certain cases.

'80HHBA. (1) Where the gross total income of an assessee being an Indian company or a person (other than a company) who is a resident in India includes any profits and gains derived from the execution of a housing project awarded to the assessee on the basis of global tender and such project is aided by the World Bank, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to fifty per cent. thereof.

(2) The deductions under this section shall be allowed only if the following conditions are fulfilled, namely:—

(i) the assessee maintains separate accounts in respect of the profits and gains derived from the business of the execution of the housing project undertaken by him and, where the assessee is a person other than an Indian company or a co-operative society, such accounts have been audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and the assessee furnishes along with his return of income the report of such audit in the prescribed form duly signed and verified by such accountant;

(ii) an amount equal to fifty per cent. of the profits and gains referred to in sub-section (1) is debited to the profits and loss account of the previous year in respect of which the deduction under this section is to be allowed and credited to a reserve account (to be called the Housing Projects Reserve Account) to be utilized by the assessee during a period of five years next following for the purposes of his business other than for distribution by way of dividends or profit:

Provided that where the amount credited by the assessee to the Housing Projects Reserve Account in pursuance of clause (ii) is less than fifty per cent. of the profits and gains referred to in sub-section (1), the deduction under this section shall be limited to the amount so credited in pursuance of clause (ii).

(3) If at any time before the expiry of five years from the end of the previous year in which the deduction under sub-section (1) is allowed, the assessee utilises the amount credited to the Housing Projects Reserve Account for distribution by way of dividends or profit or for any other purpose which is not a purpose of the business of the assessee, the deduction originally allowed under sub-section (1) shall be deemed to have been wrongly allowed and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make necessary amendment and the provision of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the end of the previous year in which the money was so utilised.

(4) Notwithstanding anything contained in any other provision of this Chapter under heading "C.—Deduction in respect of certain incomes", no part of the income payable to the assessee for the execution of a housing project under sub-section (1) shall qualify for deduction for any assessment year under any other provision.

Explanation.—For the purposes of this section,—

(a) "housing project" means a project for—

(i) the construction of any building, road, bridge or other structure in any part of India;

(ii) the execution of such other work (of whatever nature) as may be prescribed;

(b) "World Bank" means the International Bank for Reconstruction and Development Bank referred to in the International Monetary Fund and Bank Act, 1945.

32. In section 80HHD of the Income-tax Act, after sub-section (6), and before the *Explanation*, the following sub-section shall be inserted with effect from the 1st day of April, 1999, namely:—

Amendment
of section
80HHD.

'(7) Where a deduction under sub-section (1) is claimed and allowed in respect of profits derived from the business of a hotel, such part of profits shall not qualify to that extent for deduction for any assessment year under any other provisions of this Chapter under the heading "C.—Deductions in respect of certain incomes", and shall in no case exceed the profits and gains of such hotel.'

33. In section 80HHE of the Income-tax Act, with effect from the 1st day of April, 1989,—

Amendment of
section
80HHE.

(a) after sub-section (1), the following shall be inserted, namely:—

"Provided that if the assessee, being a company, engaged in the export out of India of computer software, issues a certificate referred to in clause (b) of sub-section (4A), that in respect of the amount of the export specified therein, the deduction under this sub-section is to be allowed to a supporting software developer, then the amount of deduction in the case of an assessee shall be reduced by such amount which bears to the total profits derived by the assessee from the export, the same proportion as the amount of the export turnover specified in such certificate bears to the total export turnover of the assessee.

(1A) Where the assessee, being a supporting software developer, has during the previous year, developed and sold computer software to an exporting company in respect of which the said company has issued a certificate under the proviso to sub-section (1), there shall, in accordance with and subject to the provisions of this section, be allowed in computing the total income of the assessee a deduction of the profits derived by the assessee from the developing and selling of computer software to the exporting company in respect of which the certificate has been issued by the said company.;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) For the purposes of sub-section (1A), profits derived by a supporting software developer shall be,—

(i) in a case where the business carried on by the supporting software developer consists exclusively of developing and selling of computer software to one or more exporting companies solely engaged in exports, the profits of such business;

(ii) in a case where the business carried on by a supporting software developer does not consist exclusively of developing and selling of computer software to one or more exporting companies, the amount which bears to the profits of the business, the same proportion as the turnover in respect of sale to the respective exporting company bears to the total turnover of the business carried on by the assessee.;

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) The deduction under sub-section (1A) shall not be admissible unless the supporting software developer furnishes in the prescribed form along with his return of income,—

(i) the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed on the basis of the profits of the supporting software developer in respect of sale of computer software to the exporting company; and

(ii) a certificate from the exporting company containing such particulars as may be prescribed and verified in the manner prescribed that in respect of the export turnover mentioned in the certificate, the exporting company has not claimed deduction under this section:

Provided that the certificate specified in clause (b) shall be duly certified by the auditor auditing the accounts of the exporting assessee under the provisions of this Act or under any other law.;

(d) in the *Explanation* below sub-section (5),—

(i) in clause (b), after the words "any such programme", the words "or any customised electronic data" shall be inserted;

(ii) after clause (c), the following clause shall be inserted, namely:—

'(ca) "exporting company" means a company referred to in sub-section (1) making actual export of computer software.;

(iii) after clause (e), the following clause shall be inserted, namely:—

'(ea) "supporting software developer" means an Indian company or a person (other than a company) resident in India, developing and selling computer software to an exporting company for the purposes of export.;

34. In section 80-IA of the Income-tax Act,—

Amendment of
section 80-IA.

(a) in sub-section (1), with effect from the 1st day of April, 1999,—

(i) after the words "basic or cellular", the words "including radiopaging, domestic satellite service or network of trunking and electronic data interchange services or construction and development of housing projects" shall be inserted;

- (ii) after the words "commercial production", the words "or refining" shall be inserted;
- (b) in sub-section (2).—
- (i) in clause (iii), in the proviso, for the words, figures and letters "ending on the 31st day of March, 1998", the words, figures and letters "ending on the 31st day of March, 2000" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;
- (ii) in clause (iv), in sub-clause (b).—
- (A) for the words, figures and letters "ending on the 31st day of March, 1998", the words, figures and letter "ending on the 31st day of March, 2000" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;
- (B) in the proviso, for the figures "2000", the figures "2003" shall be substituted with effect from the 1st day of April, 1999;
- (iii) in sub-clause (c), for the words, figures and letters "ending on the 31st day of March, 1999", the words, figures and letters "ending on the 31st day of March, 2000" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998;
- (c) in sub-section (4B), in clause (ii), for the figures "1998", the figures "1999" shall be substituted;
- (d) in sub-section (4C), after the words "basic or cellular", the words "including radiopaging, domestic satellite service or network of trunking and electronic data interchange services" shall be inserted with effect from the 1st day of April, 1999;
- (e) (i) in sub-section (4E), after the words "commercial production", the words "or refining" shall be inserted;
- (ii) in sub-section (4E), the following proviso shall be inserted, with effect from the 1st day of April, 1999, namely:—
- "Provided that the provisions of this section shall apply in case of refining of mineral oil where the undertaking begins refining on or after the 1st day of October, 1998;"
- (f) after sub-section (4E), the following sub-section shall be inserted with effect from the 1st day of April, 1999, namely:—
- "(4F) This section applies to an undertaking, engaged in developing and building housing projects approved by a local authority subject to the condition that the size of the plot of land has a minimum area of one acre, and the residential unit has a built up area not exceeding one thousand square feet:
- Provided that the undertaking commences development and construction of the housing project on or after the 1st day of October, 1998 and completes the same before the 31st day of March, 2001;"
- (g) in sub-section (5), after clause (v), the following clause shall be inserted with effect from the 1st day of April, 1999, namely:—
- "(vi) in the case of a housing project referred to in sub-section (4F), hundred per cent. of profits and gains derived from such business;"
- (h) in sub-section (6).—
- (i) in clause (vi), after the words "basic or cellular", the words "including radiopaging and domestic satellite service" shall be inserted with effect from the 1st day of April, 1999;
- (ii) in clause (viii), after the words "commercial production", the words "or refining" shall be inserted with effect from the 1st day of April, 1999;
- (i) after sub-section (9), the following sub-section shall be inserted with effect from the 1st day of April, 1999, namely:—
- "(9A) Where any amount of profits and gains of an industrial undertaking or of a hotel in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of this Chapter under the heading "C.—Deductions in respect of certain incomes", and shall in no case exceed the profits and gains of the undertaking or hotel, as the case may be;"
- (j) in sub-section (12).—
- (i) clause (a) shall be re-lettered as clause (aa) and before clause (aa) as so re-lettered, the following clause shall be inserted with effect from the 1st day of April, 1999, namely:—
- "(a) "domestic satellite" means a satellite owned and operated by an Indian company for providing telecommunication service;"
- (ii) in clause (c), with effect from the 1st day of April, 1999,—
- (A) in sub-clause (4), after the words "basic or cellular", the words "including radio paging and domestic satellite service" shall be inserted;
- (B) in sub-clause (6), after the words "commercial production", the words "or refining" shall be inserted;

(iii) In clause (ca), in sub-clause (i), after the word "port," the words "inland waterways and inland ports," shall be inserted with effect from the 1st day of April, 1999.

35. After section 80JJ of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Insertion of new section 80JJA.

"80JJA. Where the gross total income of an assessee includes any profits and gains derived from the business of collecting and processing or treating of bio-degradable waste for generating power, producing bio-gas, making pellets or briquettes for fuel or organic manure, there shall be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to the whole of such income, or five lakh rupees, whichever is less."

Deduction in respect of profits and gains from business of collecting and processing of bio-degradable waste.

36. After section 80JJA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—

Insertion of new section 80JJAA.

'80JJAA. (1) Where the gross total income of an assessee, being an Indian company, includes any profits and gains derived from any industrial undertaking engaged in the manufacture or production of article or thing, there shall, subject to the conditions specified in sub-section (2), be allowed a deduction of an amount equal to thirty per cent. of additional wages paid to the new regular workmen employed by the assessee in the previous year for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

Deduction in respect of employment of new workmen.

(2) No deduction under sub-section (1) shall be allowed—

(a) if the industrial undertaking is formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking;

(b) unless the assessee furnishes along with the return of income the report of the accountant, as defined in the Explanation below sub-section (2) of section 288 giving such particulars in the report as may be prescribed.

Explanation.—For the purposes of this section, the expressions,—

(i) "additional wages" means the wages paid to the new regular workmen in excess of one hundred workmen employed during the previous year;

Provided that in the case of an existing undertaking, the additional wages shall be nil if the increase in the number of regular workmen employed during the year is less than ten per cent. of existing number of workmen employed in such undertaking as on the last day of the preceding year;

(ii) "regular workman", does not include—

(a) a casual workman; or

(b) a workman employed through contract labour; or

(c) any other workman employed for a period of less than three hundred days during the previous year;

(iii) "workman" shall have the meaning assigned to it in clause (s) of section 2 of the Industrial Disputes Act, 1947.

14 of 1947.

37. In section 80P of the Income-tax Act, in sub-section (2), in clause (c), with effect from the 1st day of April, 1999,—

Amendment of section 80P.

(a) in sub-clause (i), for the words "forty thousand rupees", the words "one hundred thousand rupees" shall be substituted;

(b) in sub-clause (ii), for the words "twenty thousand rupees", the words "fifty thousand rupees" shall be substituted.

38. In section 115AD of the Income-tax Act, in sub-section (1), for clause (a), the following clause shall be substituted with effect from the 1st day of April, 1999, namely:—

Amendment of section 115AD.

"(a) income received in respect of securities (other than units referred to in section 115 AB); or".

Amendment of section 116.	<p>39. In section 116 of the Income-tax Act, after clause (cc), the following clause shall be inserted with effect from the 1st day of October, 1998, namely:—</p> <p>'(cca) "Joint Directors of Income-tax or Joint Commissioners of Income-tax";</p>
Amendment of section 139.	<p>40. In section 139 of the Income-tax Act, in sub-section (1), with effect from the 1st day of August, 1998,—</p> <p>(a) in the proviso,—</p> <p>(i) for the word "two", the word "one" shall be substituted;</p> <p>(ii) after clause (iv), the following shall be inserted, namely:—</p> <p>'(v) is the holder of the credit card, not being an "add-on" card, issued by any bank or institution; or</p> <p>(vi) is a member of a club where entrance fee charged is twenty-five thousand rupees or more:</p> <p>Provided further that the Central Government may, by notification in the Official Gazette, specify the class or classes of persons to whom the provisions of the first proviso shall not apply';</p> <p>(b) after Explanation 3, the following Explanation shall be inserted, namely:—</p> <p>'Explanation 4.—For the purposes of this sub-section, the expression "travel to any foreign country" does not include travel to the neighbouring countries or to such places of pilgrimage as the Board may specify in this behalf by notification in the Official Gazette.'</p>
Amendment of section 139A.	<p>41. In section 139A of the Income-tax Act, with effect from the 1st day of August, 1998,—</p> <p>(a) in sub-section (1), in clause (ii), for the words "fifty thousand rupees", the words "five lakh rupees" shall be substituted;</p> <p>(b) in sub-section (5), in clause (c), after the proviso, the following proviso shall be inserted, namely:—</p> <p>"Provided further that a person shall quote General Index Register Number till such time Permanent Account Number is allotted to such person";</p> <p>(c) in sub-section (6), after the words "the Permanent Account Number", the words "or the General Index Register Number" shall be inserted;</p> <p>(d) in sub-section (8),—</p> <p>(i) in clause (b), after the words "the Permanent Account Number", the words "or the General Index Register Number" shall be inserted;</p> <p>(ii) after clause (c), the following clauses shall be inserted, namely:—</p> <p>"(d) class or classes of persons to whom the provisions of this section shall not apply;</p> <p>(e) the form and the manner in which the person who has not been allotted a Permanent Account Number or who does not have General Index Register Number shall make his declaration;</p> <p>(f) the manner in which the Permanent Account Number or the General Index Register Number shall be quoted in respect of the categories of transactions referred to in clause (c);</p> <p>(g) the time and the manner in which the transactions referred to in clause (c) shall be intimated to the prescribed authority;"</p> <p>(e) in the Explanation at the end, after clause (c), the following clause shall be inserted, namely:—</p> <p>'(d) "General Index Register Number" means a number given by an Assessing Officer to an assessee in the General Index Register maintained by him and containing the designation and particulars of the ward or circle or range of the Assessing Officer.'</p>
Amendment of section 143.	<p>42. In section 143 of the Income-tax Act, in sub-section (3), for the words "determine the sum payable by him", the words "determine the sum payable by him or refund of any amount due to him" shall be substituted with effect from the 1st day of October, 1998.</p>
Insertion of new section 145A.	<p>43. After section 145 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1999, namely:—</p>
Method of accounting in certain cases.	<p>'145A. Notwithstanding anything to the contrary contained in section 145, the valuation of purchase and sale of goods and inventory for the purposes of determining the income chargeable under the head "Profits and gains of business or profession" shall be—</p> <p>(a) in accordance with the method of accounting regularly employed by the assessee; and</p>

(b) further adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the date of valuation.

Explanation.—For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding 'any right arising as a consequence to such payment.'

44. In section 158BA of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1995, namely:—

Amendment of section 158BA.

"Explanation.—For the removal of doubts, it is hereby declared that—

(a) the assessment made under this Chapter shall be in addition to the regular assessment in respect of each previous year included in the block period;

(b) the total undisclosed income relating to the block period shall not include the income assessed in any regular assessment as income of such block period;

(c) the income assessed in this Chapter shall not be included in the regular assessment of any previous year included in the block period."

45. In section 158BB of the Income-tax Act, in sub-section (1), in the *Explanation*, in clause (b), after the words "by whatever name called", the words "to any partner not being a working partner" shall be inserted with effect from the 1st day of April, 1999.

Amendment of section 158BB.

46. In section 158BE of the Income-tax Act, after sub-section (2), the existing *Explanation* shall be renumbered as *Explanation 1* and after *Explanation 1* as so renumbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1995, namely:—

Amendment of section 158BE.

"Explanation 2.—For the removal of doubts, it is hereby declared that the authorisation referred to in sub-section (1) shall be deemed to have been executed,—

(a) in the case of search, on the conclusion of search as recorded in the last *panchnama* drawn in relation to any person in whose case the warrant of authorisation has been issued;

(b) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer."

47. In section 192 of the Income-tax Act, for sub-section (2B), the following sub-section shall be substituted with effect from the 1st day of August, 1998, namely:—

Amendment of section 192.

'(2B) Where an assessee who receives any income chargeable under the head "Salaries" has, in addition, any income chargeable under any other head of income (not being a loss under any such head other than the loss under the head "Income from house property") for the same financial year, he may send to the person responsible for making the payment referred to in sub-section (1) the particulars of—

(a) such other income and of any tax deducted thereon under any other provision of this Chapter;

(b) the loss, if any, under the head "Income from house property",

in such form and verified in such manner as may be prescribed, and thereupon the person responsible as aforesaid shall take—

(i) such other income and tax, if any, deducted thereon; and

(ii) the loss, if any, under the head "Income from house property",

also into account for the purposes of making the deduction under sub-section (1):

Provided that this sub-section shall not in any case have the effect of reducing the tax deductible except where the loss under the head "Income from house property" has been taken into account, from income under the head "Salaries" below the amount that would be so deductible if the other income and the tax deducted thereon had not been taken into account.'

Amendment
of Chapter
XIX-B.

48. In Chapter XIX-B of the Income-tax Act, with effect from the 1st day of October, 1998,—

(a) in section 245N,—

(i) for clause (a), the following clause shall be substituted, namely:—

'(a) "advance ruling" means—

(i) a determination by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant and such determination shall include the determination of any question of law or of fact specified in the application;

(ii) a decision by the Authority in relation to an assessment which is pending before any of the Income-tax authority or the Tribunal in case of an applicant who is a resident in India and such decision shall include the decision on question of law or fact arising out of the orders of assessment in respect of which an application has been made by a resident applicant;'

(ii) for clause (b), the following clause shall be substituted, namely:—

'(b) "applicant" means any person who—

(i) is a non-resident; or

(ii) is a resident falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(iii) makes an application under sub-section (1) of section 245Q;'

(b) in section 245R, in sub-section (2), in the first proviso, after the words "allow the application", the words "except in the case of a resident applicant" shall be inserted;

(c) after section 245R, the following section shall be inserted, namely:—

Appellate
authority not
to proceed in
certain cases.

"245RR. No Income-tax authority or the Appellate Tribunal shall proceed to decide any issue in respect to which an application has been made by an applicant, being a resident, under sub-section (1) of section 245R."

Insertion of
new section
246A.

49. After section 246 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 1998, namely:—

Appealable
orders before
Commissioner
(Appeals).

'246A. (1) Any assessee aggrieved by any of the following orders (whether made before or after the appointed day) may appeal to the Commissioner (Appeals) against—

(a) an order against the assessee where the assessee denies his liability to be assessed under this Act or an intimation under sub-section (1) or sub-section (1B) of section 143, where the assessee objects to the making of adjustments, or any order of assessment under sub-section (3) of section 143 or section 144, to the income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(b) an order of assessment, re-assessment or re-computation under section 147 or section 150;

(c) an order made under section 154 or section 155 having the effect of enhancing the assessment or reducing a refund or an order refusing to allow the claim made by the assessee under either of the said sections;

(d) an order made under section 183 treating the assessee as the agent of a non-resident;

(e) an order made under sub-section (2) or sub-section (3) of section 170;

(f) an order made under section 171;

(g) an order made under clause (b) of sub-section (1) or under sub-section (2) or sub-section (3) or sub-section (5) of section 185 in respect of an assessment for the assessment year commencing on or before the 1st day of April, 1992;

(h) an order cancelling the registration of a firm under sub-section (1) or under sub-section (2) of section 186 in respect of any assessment for the assessment year commencing on or before the 1st day of April, 1992 or any earlier assessment year;

(i) an order made under section 237;

(j) an order imposing a penalty under—

(A) section 221; or

(B) section 271, section 271A, section 271F, section 272AA or section 272BB;

(C) section 272, section 272B or section 273, as they stood immediately before the 1st day of April, 1989, in respect of an assessment for the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year;

(k) an order of assessment made by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of January, 1997;

(l) an order imposing a penalty under sub-section (2) of section 158BFA;

(m) an order imposing a penalty under section 271B or section 271BB;

(n) an order made by a Deputy Commissioner imposing a penalty under section 271C, section 271D or section 271E;

(o) an order made by a Deputy Commissioner or a Deputy Director imposing a penalty under section 272A;

(p) an order made by a Deputy Commissioner imposing a penalty under section 272AA;

(q) an order imposing a penalty under Chapter XXI;

(r) an order made by an Assessing Officer other than a Deputy Commissioner under the provisions of this Act in the case of such person or class of persons, as the Board may, having regard to the nature of the cases, the complexities involved and other relevant considerations, direct.

Explanation.—For the purposes of this sub-section, where on or after the 1st day of October, 1998, the post of Deputy Commissioner has been redesignated as Joint Commissioner and the post of Deputy Director has been redesignated as Joint Director, the references in this sub-section for "Deputy Commissioner" and "Deputy Director" shall be substituted by "Joint Commissioner" and "Joint Director" respectively.

(2) Notwithstanding anything contained in sub-section (1) of section 246, every appeal under this Act which is pending immediately before the appointed day, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeals and which is so pending shall stand transferred on that date to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeal or matter from the stage at which it was on that day:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceeding or any part thereof be reopened or that he be re-heard.

Explanation.—For the purposes of this section, "appointed day" means the day appointed by the Central Government by notification in the Official Gazette.

50. In section 249 of the Income-tax Act, with effect from the 1st day of October, 1998,—

Amendment
of section
249.

(a) In sub-section (1), after the words "verified in the prescribed manner", the following words, brackets, letters and figures shall be inserted, namely:—

"and shall, in case of an appeal made to the Commissioner (Appeals) on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto be accompanied by a fee of,—

(i) where the total income of the assessee as computed by the Assessing Officer in the case to which the appeal relates is one hundred thousand rupees or less, two hundred fifty rupees;

(II) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, five hundred rupees;

(III) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one thousand rupees;

(b) in sub-section (3) and in the proviso to sub-section (4), the words and brackets "Deputy Commissioner (Appeals) or, as the case may be, the" shall be omitted.

Amendment
of section
252.

51. In section 252 of the Income-tax Act,—

(a) in sub-section (2),—

(I) for the words "Central Legal Service", the words "Indian Legal Service" shall be substituted;

(II) for the word and figure "Grade I", the word and figures "Grade II" shall be substituted;

(b) in sub-section (2A), for the words "Commissioner of Income-tax", the words "Additional Commissioner of Income-tax" shall be substituted.

Amendment
of section
253.

52. In section 253 of the Income-tax Act, with effect from the 1st day of October, 1998,—

(a) in sub-section (1), in clause (a), after the words and brackets "Deputy Commissioner (Appeals)", the words, figures and letters "before the 1st day of October, 1998" shall be inserted;

(b) in sub-section (2), in clause (a), after the words and brackets "Deputy Commissioner (Appeals)", the words, figures and letters "before the 1st day of October, 1998" shall be inserted;

(c) for sub-section (6), the following sub-sections shall be substituted, namely:—

"(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, in the case of an appeal made, on or after the 1st day of October, 1998, irrespective of the date of initiation of the assessment proceedings relating thereto, be accompanied by a fee of,—

(a) where the total income of the assessee as computed by the Assessing Officer, in the case to which the appeal relates, is one hundred thousand rupees or less, five hundred rupees,

(b) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than one hundred thousand rupees but not more than two hundred thousand rupees, one thousand five hundred rupees,

(c) where the total income of the assessee, computed as aforesaid, in the case to which the appeal relates is more than two hundred thousand rupees, one per cent. of the assessed income, subject to a maximum of ten thousand rupees:

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4).

(7) An application for stay of demand shall be accompanied by a fee of five hundred rupees."

Amendment
of section
254.

53. In section 254 of the Income-tax Act, in sub-section (2), after the first proviso, the following proviso shall be inserted with effect from the 1st day of October, 1998, namely:—

"Provided further that any application filed by the assessee in this sub-section on or after the 1st day of October, 1998, shall be accompanied by a fee of fifty rupees."

Amendment
of section
255.

54. In section 255 of the Income-tax Act, in sub-section (3), for the words "does not exceed one hundred thousand rupees", the words "does not exceed five hundred thousand rupees" shall be substituted with effect from the 1st day of October, 1998.

Amendment
of section
256.

55. In section 256 of the Income-tax Act, in sub-section (1), for the words and figures "an order under section 254", the words, letters and figures "an order passed before the 1st day of October, 1998, under section 254" shall be substituted with effect from the 1st day of October, 1998.

56. In section 257 of the Income-tax Act, for the words and figures "an application made under section 256", the words, letter and figures "an application made against an order made under section 254 before the 1st day of October, 1998, under section 256" shall be substituted with effect from the 1st day of October, 1998.

Amendment of section 257.

57. In section 260 of the Income-tax Act, after sub-section (1), the following sub-section shall be inserted with effect from the 1st day of October, 1998, namely:—

Amendment of section 260.

"(1A) Where the High Court delivers a judgment in an appeal filed before it under section 260A, effect shall be given to the order passed on the appeal by the Assessing Officer on the basis of a certified copy of the judgment .".

58. In Chapter XX of the Income-tax Act, after sub-heading 'C', the following sub-heading and sections shall be inserted with effect from the 1st day of October, 1998, namely:—

Insertion of new sub-heading and sections in Chapter XX.

"CC. Appeals to High Court

260A. (1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

Appeal to High Court

(2) An appeal under this section shall be—

(a) filed within one hundred and twenty days from the date on which the order appealed against is communicated to the appellant;

(b) accompanied by a fee of ten thousand rupees where such appeal is filed by an assessee;

(c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which—

(a) has not been determined by the Appellate Tribunal; or

(b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1).

260B. (1) When an appeal has been filed before the High Court under section 260A, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

Case to be heard by High Court to be heard by not less than two Judges

(2) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

Amendment
of section
261.

59. In section 261 of the Income-tax Act, for the words and figures "delivered on a reference made under section 256", the words, figures and letters "delivered on a reference made under section 256 against an order made under section 254 before the 1st day of October, 1998 or an appeal made to High Court in respect of an order passed under section 254 on or after that date" shall be substituted with effect from the 1st day of October, 1998.

Amendment
of section
264.

60. In section 264 of the Income-tax Act, after sub-section (5), the following sub-sections shall be inserted with effect from the 1st day of October, 1998, namely:—

"(6) On every application by an assessee for revision under this sub-section, made on or after the 1st day of October, 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

(7) Notwithstanding anything contained in sub-section (6), an order in revision under sub-section (6) may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court".

Substitution
of new
section for
section 271F.

61. For section 271F of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1999, namely:—

Penalty for
failure to
furnish return
of income.

"271F. If a person who is required to furnish a return of his income, as required under sub-section (1) of section 139, fails to furnish such return before the end of the relevant assessment year, he shall be liable to pay, by way of penalty, a sum of one thousand rupees:

Provided that a person who is required to furnish a return of his income, as required by the proviso to sub-section (1) of section 139, fails to furnish such return on or before the due date, he shall be liable to pay, by way of penalty, a sum of five hundred rupees."

Amendment
of section
272A.

62. In section 272A of the Income-tax Act, in sub-section (2), in the proviso, after the words "in relation to", the words, figures and letter "a declaration mentioned in section 197A, a certificate as required by section 203 and" shall be inserted with effect from the 1st day of April, 1999.

Amendment
of section
285B.

63. In section 285B of the Income-tax Act, for the words "five thousand rupees", the words "twenty-five thousand rupees" shall be substituted with effect from the 1st day of April, 1999.

Amendment
of First
Schedule.

64. In the First Schedule to the Income-tax Act, in rule 5, in clause (a), for the words "any expenditure or allowance", the words "any expenditure or allowance including any amount debited to the profit and loss account either by way of a provision for any tax, dividend, reserve or any other provision as may be prescribed" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1989.

Consequen-
tial amend-
ments.

65. The following amendments (being consequential in nature) shall be made in the Income-tax Act, namely:—

(a) in sections 119, 154, 177, 189, 267, 271, 271A, 275 and 295, the words and brackets "Deputy Commissioner (Appeals) or the", wherever they occur, shall be omitted with effect from the 1st day of October, 1998;

(b) in sections 248, 250, 251 and 287, the words and brackets "Deputy Commissioner (Appeals) or, as the case may be, the" shall be omitted with effect from the 1st day of October, 1998.

Wealth-tax

27 of 1957.

66. In the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), save as otherwise expressly provided in the Wealth-tax Act and unless the context otherwise requires, the reference to any authority specified in column (1) of the Table below shall be substituted with effect from the 1st day of October, 1998 by reference to the authority or authorities specified in the corresponding entry in column (2) of the said Table and such consequential changes as the rules of grammar may require shall also be made:

TABLE

(1)	(2)
1. Assistant Commissioner	Assistant Commissioner or Deputy Commissioner.
2. Assistant Director	Assistant Director or Deputy Director.
3. Deputy Commissioner	Joint Commissioner.
4. Deputy Director	Joint Director.

67. In section 2 of the Wealth-tax Act,—

Amendment
of section 2.

(a) for clause (ca), the following clause shall be substituted with effect from the 1st day of October, 1998, namely:—

‘(ca) “Assessing Officer” means the Deputy Commissioner of Income-tax or the Assistant Commissioner or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of the Income-tax Act which apply for the purposes of wealth-tax under section 8 of this Act and also the Joint Commissioner who is directed under clause (b) of sub-section (4) of the said section 120 to exercise or perform all or any of the powers and functions conferred on or assigned to the Assessing Officer under that Act;’

(b) in clause (ea) with effect from the 1st day of April, 1999,—

(i) for sub-clause (i), the following sub-clause shall be substituted, namely:—

‘(i) any building or land appurtenant thereto (hereinafter referred to as “house”), whether used for residential or commercial purposes or for the purpose of maintaining a guest house or otherwise including a farm house situated within twenty-five kilometres from local limits of any municipality (whether known as Municipality, Municipal Corporation or by any other name) or a Cantonment Board, but does not include—

(1) a house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or a director who is in whole-time employment, having a gross annual salary of less than five lakh rupees;

(2) any house for residential or commercial purposes which forms part of stock-in-trade;

(3) any house which the assessee may occupy for the purposes of any business or profession carried on by him;

(4) any residential property that has been let-out for a minimum period of three hundred days in the previous year;

(5) any property in the nature of commercial establishments or complexes;’

(ii) after clause (vi), in the Explanation, in clause (b), in sub-clause (ii), for the words “or any land held by the assessee as stock-in-trade for a period of five years from the date of its acquisition by him”, the words “or any land held by the assessee as stock-in-trade for a period of ten years from the date of its acquisition by him” shall be substituted;

(c) for clause (s), the following clause shall be substituted with effect from the 1st day of October, 1998, namely:—

‘(s) the expressions “Chief Commissioner, Director-General, Commissioner, Commissioner (Appeals), Director, Additional Director of Income-tax, Additional Commissioner of Income-tax, Joint Director, Joint Commissioner of Income-tax, Deputy Director, Deputy Commissioner, Assistant Commissioner, Assistant-Director, Income-tax Officer, Inspector of Income-tax and Tax Recovery Officer” shall have the meanings respectively assigned to them under section 2 of the Income-tax Act.’

68. In section 5 of the Wealth-tax Act, with effect from the 1st day of April, 1999,—

Amendment
of section 5.

(a) in the proviso to clause (i), the words, brackets, figures and letter “clause (22) or clause (22A) or” shall be omitted;

(b) for clause (vi), the following clause shall be substituted, namely:—

'(v) one house or part of a house or a plot of land belonging to an individual or a Hindu undivided family:

Provided that wealth-tax shall not be payable by an assessee in respect of an asset being a plot of land comprising an area of five hundred square meters or less.'

Insertion of
new section
23A.
Appealable
orders before
Commissioner
(Appeals).

69. After section 23 of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1998, namely:—

'23A. (1) Any person—

- (a) objecting to the amount of net wealth determined under this Act; or
- (b) objecting to the amount of wealth-tax determined as payable by him under this Act; or
- (c) denying his liability to be assessed under this Act; or
- (d) objecting to any penalty imposed by the Assessing Officer under section 18 or section 18A; or
- (e) objecting to any order of the Assessing Officer under sub-section (2) of section 20; or
- (f) objecting to any penalty imposed by the Assessing Officer under the provisions of section 221 of the Income-tax Act as applied under section 32 for the purposes of wealth-tax; or
- (g) objecting to any order made by the Assessing Officer under section 22 treating him as the agent of a person residing outside India; or
- (h) objecting to any order of the Assessing Officer under section 35 having the effect of enhancing the assessment or reducing a refund or refusing to allow the claim made by the assessee under the said section; or
- (i) objecting to any order of the Valuation Officer under section 35 having the effect of enhancing the valuation of any asset or refusing to allow the claim made by the assessee under the said section; or
- (j) objecting to any penalty imposed by the Deputy Director or Deputy Commissioner under section 18A,

may appeal to the Commissioner (Appeals) against the assessment or order, as the case may be, in the prescribed form and verified in the prescribed manner and on payment of a fee of two hundred and fifty rupees.

Explanation.—For the purposes of this sub-section, where on or before the 1st day of October, 1998, the post of Deputy Commissioner has been redesignated as Joint Commissioner and the post of Deputy Director has been redesignated as Joint Director, the references in this sub-section for "Deputy Commissioner" and "Deputy Director" shall be substituted by "Joint Commissioner" and "Joint Director" respectively.

(2) Notwithstanding anything contained in sub-section (1) of section 23, every appeal under this Act which is pending immediately before the appointed day, before the Deputy Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Commissioner (Appeals) and the Commissioner (Appeals) may proceed with such appeals or matter from the stage on which it was on that day:

Provided that the appellant may demand that before proceeding further with the appeal or matter, the previous proceedings or any part thereof be re-opened or that he be re-heard.

Explanation.—For the purposes of this sub-section, "appointed day" means the day appointed under section 246A of the Income-tax Act.

(3) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to the assessment or penalty objected to or the day on which any order objected to is communicated to him, but the Commissioner (Appeals) may admit an appeal after the expiration of the period aforesaid, if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(4) Where a return has been filed by an assessee, no appeal under this section shall be admitted unless at the time of filing of the appeal, he has paid the tax due on the net wealth returned by him.

(5) The Commissioner (Appeals) shall fix a day and place for the hearing of the appeal and may, from time to time, adjourn the hearing.

(6) If the valuation of any asset is objected to in an appeal under clause (a) or clause (i) of sub-section (1), the Commissioner (Appeals) shall,—

(a) in case where such valuation has been made by a Valuation Officer under section 18A, give such Valuation Officer an opportunity of being heard;

(b) in any other case on request being made in this behalf by the Assessing Officer, give an

opportunity of being heard to any Valuation Officer nominated for the purpose by the Assessing Officer.

(7) The Commissioner (Appeals) may,—

(a) at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal;

(b) before disposing of any appeal, make such further enquiry as he thinks fit or cause further enquiry to be made by the Assessing Officer or, as the case may be, by the Valuation Officer.

(8) In disposing of an appeal, the Commissioner (Appeals) may pass such order as he thinks fit which may include an order enhancing the assessment or penalty:

Provided that no order enhancing the assessment or penalty shall be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(9) In disposing of an appeal, the Commissioner (Appeals) may consider and decide any matter arising out of the proceedings in which the order appealed against was passed, notwithstanding that such matter was not placed before the Commissioner (Appeals) by the appellant.

(10) The order of the Commissioner (Appeals) disposing of the appeal shall be in writing and shall state the points for determining the decision thereon and reasons for the decision.

(11) A copy of every order passed by the Commissioner (Appeals) under this section shall be forwarded to the appellant and the Chief Commissioner or Commissioner.

70. In section 24 of the Wealth-tax Act, with effect from the 1st day of October, 1998,—

Amendment
of section 24.

(a) in sub-section (1), after the word and figures "section 23", the word, figures and letter, "section 23A" shall be inserted;

(b) in sub-section (2), for the words, brackets and figures "a Deputy Commissioner (Appeals) or a Commissioner (Appeals) under section 23", the words, brackets, figures and letter "a Commissioner (Appeals) under sub-section (10) of section 23A" shall be substituted;

(c) in sub-section (2A), the words and brackets "the Deputy Commissioner (Appeals) or", at both the places where they occur, shall be omitted;

(d) in sub-section (4), for the words "two hundred rupees", the words "one thousand rupees" shall be substituted.

71. In section 25 of the Wealth-tax Act, with effect from the 1st day of October, 1998,—

Amendment of
section 25.

(a) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) On every application made by an assessee for revision under sub-section (1), an order shall be passed by the Commissioner within one year from the end of financial year in which such application is made by the assessee for revision.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 39 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded."

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Notwithstanding anything contained in sub-section (3) or sub-section (3A), an order in revision under sub-section (1) or sub-section (2) may be passed at any time in consequence of, or to give effect to, any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court."

72. After section 27 of the Wealth-tax Act, the following section shall be inserted with effect from the 1st day of October, 1998, namely:—

Insertion of new
section 27A.

"27A. (1) The assessee or the Chief Commissioner or Commissioner may, within one hundred and twenty days of the day upon which he is served with notice of an order under section 24 or section 26 or clause (e) of sub-section (1) of section 35, file on or after the 1st day of October, 1998, an appeal before the High Court.

(2) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal, under sub-section (1) of section 24 only if the High Court is satisfied that the case involves a substantial question of law.

(3) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal, and, where the appeal is made by the assessee, shall be accompanied by a fee of five thousand rupees.

(4) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(5) The appeal shall be heard only on the question so formulated and the respondent shall, at the time of hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(6) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(7) The Assessing Officer shall give effect to the order of the High Court on the basis of a certified copy of judgment delivered under sub-section (6)."

Amendment of section 28. 73. In section 28 of the Wealth-tax Act, for the words and figures "under section 27", the words, figures and letter "under section 27 or an appeal filed before the High Court under section 27A" shall be substituted with effect from the 1st day of October, 1998.

Amendment of section 29. 74. In section 29 of the Wealth-tax Act, with effect from the 1st day of October, 1998,—

(a) in sub-section (1), for the words and figures "under section 27", the words, figures and letter "under section 27 or an appeal filed under section 27A" shall be substituted;

(b) in sub-section (2), after the word and figures "section 27", the words, brackets, figures and letter "or in sub-section (7) of section 27A" shall be inserted.

Gift-tax

Amendment of section 3 75. In the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), in section 3, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of October, 1998, namely:— 18 of 1958.

"(3) Notwithstanding anything contained in sub-section (2), the provisions of this Act shall cease to apply and shall have no effect whatsoever in respect of any gift made on or after the 1st day of October, 1998."

Application of the provisions of the Wealth-tax Act. 76. (1) The provisions of sections 23, 24, 25, 28 and 29 of the Wealth-tax Act as amended and section 27A as inserted, by the Finance (No. 2) Act, 1998, shall apply with necessary modification as if the said provisions were referred to in the Gift-tax Act instead of the Wealth-tax Act.

(2) The Wealth-tax authorities as substituted by section 86 of the Finance (No. 2) Act, 1998 shall be deemed to be the Gift-tax authorities for the purposes of the Gift-tax Act.

Interest-tax

Amendment of section 3. 77. In section 3 of the Interest-tax Act, 1974 (hereinafter referred to as the Interest-tax Act), in sub-section (3), with effect from the 1st day of October, 1998,— 45 of 1974.

(a) after the words "Assistant Commissioner", the words "or Deputy Commissioner" shall be inserted;

(b) for the words "Deputy Commissioner", the words "Joint Commissioner" shall be substituted.

Amendment of section 15. 78. In section 15 of the Interest-tax Act, for sub-section (2), the following sub-section shall be substituted with effect from the 1st day of October, 1998, namely:—

"(2) Every appeal filed on or after the 1st day of October, 1998 shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of two hundred and fifty rupees."

Amendment of section 16. 79. In section 16 of the Interest-tax Act, in sub-section (6), for the words "two hundred rupees", occurring at the end, the words, figures and letters "one thousand rupees in the case of an appeal filed on or after the 1st day of October, 1998" shall be substituted.

Amendment of section 20. 80. In section 20 of the Interest-tax Act, after sub-section (5), the following sub-sections shall be inserted with effect from the 1st day of October, 1998, namely:—

"(6) On every application by an assessee for revision under this sub-section, made on or after the 1st day of October, 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 21 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

(7) Notwithstanding anything contained in sub-section (6), an order in revision under sub-section (6) may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court."

Expenditure-tax

35 of 1987.

81. In the Expenditure-tax Act, 1987 (hereinafter referred to as the Expenditure-tax Act), in section 3, in sub-section (1), for the words "one thousand two hundred rupees", the words "two thousand rupees" shall be substituted with effect from the 1st day of October, 1998. Amendment of section 3.

82. In section 6 of the Expenditure-tax Act, with effect from the 1st day of October, 1998,— Amendment of section 6.

(a) in sub-section (1), after the words "Additional Commissioner of Income-tax", the words "Joint Director of Income-tax, Joint Commissioner of Income-tax" shall be inserted;

(b) in sub-section (3), for the words "Deputy Commissioner", the words "Joint Commissioner" shall be substituted.

83. In section 21 of the Expenditure-tax Act, after sub-section (5), the following sub-sections shall be inserted with effect from the 1st day of October, 1998, namely:— Amendment of section 21.

"(6) On every application by an assessee for revision under this sub-section, made on or after the 1st day of October, 1998, an order shall be passed within one year from the end of the financial year in which such application is made by the assessee for revision.

Explanation.—In computing the period of limitation for the purposes of this sub-section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 24 and any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

(7) Notwithstanding anything contained in sub-section (6), an order in revision under that sub-section may be passed at any time in consequence of or to give effect to any finding or direction contained in an order of the Appellate Tribunal, the High Court or the Supreme Court."

84. In section 22 of the Expenditure-tax Act, for sub-section (2), the following sub-section shall be substituted with effect from the 1st day of October, 1998, namely:— Amendment of section 22.

"(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner and in respect of appeals filed on or after the 1st day of October, 1998, shall be accompanied by a fee of two hundred and fifty rupees."

85. In section 23 of the Expenditure-tax Act, in sub-section (6), for the words occurring at the end "a fee of two hundred rupees", the words, figures and letters "a fee of one thousand rupees in the case of appeals filed on or after the 1st day of October, 1998" shall be substituted with effect from the 1st day of October, 1998. Amendment of section 23.

CHAPTER IV

KAR VIVAD SAMADHAN SCHEME, 1998

86. (1) This Scheme may be called the Kar Vivad Samadhan Scheme, 1998.

Short title and commencement.

(2) It shall come into force on the 1st day of September, 1998.

87. In this Scheme, unless the context otherwise requires,—

Definitions.

(a) "declarant" means a person making a declaration under section 88;

(b) "designated authority" means,—

(i) where the tax arrear is under any direct tax enactment, an officer not below the rank of Commissioner of Income-tax and notified by the Chief Commissioner for the purposes of this Scheme;

(ii) where the tax arrear payable is under any indirect tax enactment, an officer not below the rank of Commissioner of Customs or the Commissioner of Central Excise and notified by the Chief Commissioner for the purposes of this Scheme;

(c) "disputed chargeable expenditure", in relation to an assessment year, means the whole or so much of the chargeable expenditure as is relatable to the disputed tax;

(d) "disputed chargeable interest", in relation to an assessment year, means the whole or so much of the chargeable interest as is relatable to the disputed tax;

(e) "disputed income", in relation to an assessment year, means the whole or so much of the total income as is relatable to the disputed tax;

(f) "disputed tax" means the total tax determined and payable, in respect of an assessment year under any direct tax enactment but which remains unpaid as on the date of making the declaration under section 88;

(g) "disputed wealth", in relation to an assessment year, means the whole or so much of the net wealth as is relatable to the disputed tax;

(h) "direct tax enactment" means the Wealth-tax Act, 1957 or the Gift-tax Act, 1958 or the Income-tax Act, 1961 or the Interest-tax Act, 1974 or the Expenditure-tax Act, 1987;

27 of 1957.
18 of 1958.
43 of 1961.
45 of 1974.
35 of 1987.

(i) "disputed value of gift", in relation to an assessment year, means the whole or so much of the value of gift as is relatable to the disputed tax;

(j) "indirect tax enactment" means the Customs Act, 1962 or the Central Excise Act, 1944 or the Customs Tariff Act, 1975 or the Central Excise Tariff Act, 1985 or the relevant Act and includes the rules or regulations made under such enactment;

52 of 1962.
1 of 1944.
51 of 1975.
5 of 1986.

(k) "person" includes—

(i) an individual,

(ii) a Hindu undivided family,

(iii) a company,

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or not,

(vi) a local authority,

(vii) every artificial juridical person, not falling within any of the preceding sub-clauses,

(viii) assessee, as defined in rule 2 of the Central Excise Rules, 1944,

1 of 1944.

(ix) exporter as defined in clause (20) of section 2 of the Customs Act, 1962,

52 of 1962.

(x) importer as defined in clause (26) of section 2 of the Customs Act, 1962,

52 of 1962.

(xi) any person against whom proceedings have been initiated and are pending under any direct tax enactment or indirect tax enactment;

(l) "relevant Act" means an Act specified in the Schedule to this Scheme;

(m) "tax arrear" means,—

(i) in relation to direct tax enactment, the amount of tax, penalty or interest determined on or before the 31st day of March, 1998 under that enactment in respect of an assessment year as modified in consequence of giving effect to an appellate order but remaining unpaid on the date of declaration;

(ii) in relation to indirect tax enactment,—

(a) the amount of duties (including drawback of duty, credit of duty or any amount representing duty), cesses, interest, fine or penalty determined as due or payable under that enactment as on the 31st day of March, 1998 but remaining unpaid as on the date of making a declaration under section 88; or

(b) the amount of duties (including drawback of duty, credit of duty or any amount representing duty), cesses, interest, fine or penalty which constitutes the subject matter of a demand notice or a show-cause notice issued on or before the 31st day of March, 1998 under that enactment but remaining unpaid on the date of making a declaration under section 88,

but does not include any demand relating to erroneous refund and where a show-cause notice is issued to the declarant in respect of seizure of goods and demand of duties, the tax arrear shall not include the duties on such seized goods where such duties on the seized goods have not been quantified.

Explanation.—Where a declarant has already paid either voluntarily or under protest, any amount of duties, cesses, interest, fine or penalty specified in this sub-clause, on or before the date of making a declaration by him under section 88 which includes any deposit made by him pending any appeal or in pursuance of a court order in relation to such duties, cesses, interest, fine or penalty, such payment shall not be deemed to be the amount unpaid for the purposes of determining tax arrear under this sub-clause;

(n) all other words and expressions used and not defined in this scheme but defined in any direct tax enactment or indirect tax enactment shall have the meanings respectively assigned to them in those enactments.

88. Subject to the provisions of this Scheme, where any person makes, on or after the 1st day of September, 1998 but on or before the 31st day of December, 1998, a declaration to the designated authority in accordance with the provisions of section 89 in respect of tax arrear, then, notwithstanding anything contained in any direct tax enactment or indirect tax enactment or any other provision of any law for the time being in force, the amount payable under this Scheme by the declarant shall be determined at the rates specified hereunder, namely:—

43 of 1961.

(a) where the tax arrear is payable under the Income-tax Act, 1961,—

(i) in the case of a declarant, being a company or a firm, at the rate of thirty-five per cent. of the disputed income;

(ii) in the case of a declarant, being a person other than a company or a firm, at the rate of thirty per cent. of the disputed income;

(iii) in the case where tax arrear includes income-tax, interest payable or penalty levied, at the rate of thirty-five per cent. of the disputed income for the persons referred to in clause (i) or thirty per cent. of the disputed income for the persons referred to in clause (ii);

(iv) in the case where tax arrear comprises only interest payable or penalty levied, at the rate of fifty per cent. of the tax arrear;

(v) where the tax arrear includes the tax, interest or penalty determined in any assessment on the basis of search and seizure proceedings under section 132 or section 132A of the Income-tax Act,—

(A) in the case of a declarant, being a company or a firm, at the rate of forty-five per cent. of the disputed income;

(B) in the case of a declarant, being a person other than a company or a firm, at the rate of forty per cent. of the disputed income;

27 of 1957.

(b) where the tax arrear is payable under the Wealth-tax Act, 1957,—

(i) at the rate of one per cent. of the disputed wealth;

(ii) in the case where tax arrear includes wealth-tax, interest or penalty levied, at the rate of one per cent. of the disputed wealth;

(iii) in the case where tax arrear includes only interest payable or penalty levied, at the rate of fifty per cent. of the tax arrear;

(iv) where the tax arrear includes the tax, interest or penalty determined in any assessment on the basis of search and seizure proceedings under section 37A or section 37B of the Wealth-tax Act, at the rate of two per cent. of the disputed wealth;

18 of 1958.

(c) where the tax arrear is payable under the Gift-tax Act, 1958,—

(i) at the rate of thirty per cent. of the disputed value of the gift;

(ii) in the case where the tax arrear includes gift-tax, interest payable thereon or penalty levied, at the rate of thirty per cent. of the disputed value of the gift;

(iii) where the tax arrear includes only the interest payable or the penalty levied, at the rate of fifty per cent. of the tax arrear;

35 of 1987.

(d) where the tax arrear is payable under the Expenditure-tax Act, 1987,—

(i) at the rate of ten per cent. of the disputed chargeable expenditure;

(ii) in the case where the tax arrear includes the disputed expenditure-tax, interest payable thereon and penalty levied, at the rate of ten per cent. of the disputed chargeable expenditure;

(iii) in the case where the tax arrear comprises only the interest payable or penalty levied, at the rate of fifty per cent. of the tax arrear;

45 of 1974.

(e) where the tax arrear is payable under the Interest-tax Act, 1974,—

(i) at the rate of two per cent. of the disputed chargeable interest;

(ii) in the case where tax arrear includes the interest payable thereon or penalty levied, at the rate of two per cent. of the tax arrear;

(iii) in the case where tax arrear comprises only the interest or penalty levied, at the rate of fifty per cent. of the tax arrear;

(f) where the tax arrear is payable under the Indirect tax enactment—

(i) in a case where the tax arrear comprises fine, penalty or interest but does not include duties (including drawback of duty, credit of duty or any amount representing duty) or cesses, at the rate of fifty per cent. of the amount of such fine, penalty or interest, due or payable as on the date of making a declaration under section 88;

(ii) in any other case, at the rate of fifty per cent. of the amount of duties (including drawback of duty, credit of duty or any amount representing duty) or cesses due or payable on the date of making a declaration under section 88.

Particulars to be furnished in declaration. 89. A declaration under section 88 shall be made to the designated authority and shall be in such form and shall be verified in such manner as may be prescribed.

Time and manner of payment of tax arrear. 90. (1) Within sixty days from the date of receipt of the declaration under section 88, the designated authority shall, by order, determine the amount payable by the declarant in accordance with the provisions of this Scheme and grant a certificate in such form as may be prescribed to the declarant setting forth therein the particulars of the tax arrear and the sum payable after such determination towards full and final settlement of tax arrears:

Provided that where any material particular furnished in the declaration is found to be false by the designated authority at any stage, it shall be presumed as if the declaration was never made and all the consequences under the direct tax enactment or indirect tax enactment under which the proceedings against the declarant are or were pending shall be deemed to have been revived:

Provided further that the designated authority may amend the certificate for reasons to be recorded in writing.

(2) The declarant shall pay the sum determined by the designated authority within thirty days of the passing of an order by the designated authority and intimate the fact of such payment to the designated authority alongwith proof thereof and the designated authority shall thereupon issue the certificate to the declarant.

(3) Every order passed under sub-section (1), determining the sum payable under this Scheme, shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any other proceeding under the direct tax enactment or indirect tax enactment or under any other law for the time being in force.

(4) Where the declarant has filed an appeal or reference or a reply to the show cause notice against any order or notice giving rise to the tax arrear before any authority or tribunal or court, then, notwithstanding anything contained in any other provisions of any law for the time being in force, such appeal or reference or reply shall be deemed to have been withdrawn on the day on which the order referred to in sub-section (2) is passed:

Provided that where the declarant has filed a writ petition or appeal or reference before any High Court or the Supreme Court against any order in respect of the tax arrear, the declarant shall file an application before such High Court or the Supreme Court for withdrawing such writ petition, appeal or reference and after withdrawal of such writ petition, appeal or reference with the leave of the Court, furnish proof of such withdrawal along with the intimation referred to in sub-section (2).

Immunity from prosecution and imposition of penalty in certain cases. 91. The designated authority shall, subject to the conditions provided in section 90, grant immunity from instituting any proceeding for prosecution for any offence under any direct tax enactment or indirect tax enactment, or from the imposition of penalty under any of such enactments, in respect of matters covered in the declaration under section 88.

Appellate authority not to proceed in certain cases. 92. No appellate authority shall proceed to decide any issue relating to the disputed chargeable expenditure, disputed chargeable interest, disputed income, disputed wealth, disputed value of gift or tax arrear specified in the declaration and in respect of which an order had been made under section 90 by the designated authority or the payment of the sum determined under that section:

Provided that in case an appeal is filed by a Department of the Central Government in respect of such issue relating to the disputed chargeable expenditure, disputed chargeable interest, disputed income, disputed wealth, disputed value of gift or tax arrear (except where the tax arrear comprises only penalty, fine or interest), the appellate authority shall decide the appeal irrespective of such declaration.

No refund of amount paid under the Scheme. 93. Any amount paid in pursuance of a declaration made under section 88 shall not be refundable under any circumstances.

Removal of doubts. 94. For the removal of doubts, it is hereby declared that, save as otherwise expressly provided in sub-section (3) of section 90, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant in any assessment or proceedings other than those in relation to which the declaration has been made.

Scheme not to apply in certain cases. 95. The provisions of this Scheme shall not apply—

(i) in respect of tax arrear under any direct tax enactment,—

(a) in a case where prosecution for concealment has been instituted on or before the date of filing of the declaration under section 88 under any direct tax enactment in respect of any assessment year, to any tax arrear in respect of such assessment year under such direct tax enactment or in respect of a person who has been convicted for concealment on or before the date of filing the declaration;

(b) in a case where an order has been passed by the Settlement Commission under sub-section (4) of section 245D of the Income-tax Act or sub-section (4) of section 22D of the Wealth-tax Act, as the case may be, for any assessment year, to any tax arrear in respect of such assessment year under such direct tax enactment;

(c) to a case where no appeal or reference or writ petition is admitted and pending before

any appellate authority or the High Court or the Supreme Court on the date of filing of declaration or no application for revision is pending before the Commissioner on the date of filing declaration;

(ii) in respect of tax arrear under any indirect tax enactment,—

(a) in a case where prosecution for any offence punishable under any provisions of any indirect tax enactment has been instituted on or before the date of filing of the declaration under section 88, in respect of any tax arrear in respect of such case under such indirect tax enactment;

(b) in a case where show cause notice or a notice of demand under any indirect tax enactment has not been issued;

(c) in a case where no appeal or reference or writ petition is admitted and pending before any appellate authority or the High Court or the Supreme Court or no application for revision is pending before the Central Government on the date of declaration made under section 88;

(iii) to any person in respect of whom prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Foreign Exchange Regulation Act, 1973, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Terrorists and Disruptive Activities (Prevention) Act, 1987, the Prevention of Corruption Act, 1988, or for the purpose of enforcement of any civil liability has been instituted on or before the filing of the declaration or such person has been convicted of any such offence punishable under any such enactment;

(iv) to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:

Provided that—

(a) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

(b) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9 of the said Act; or

(c) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or

(d) such order of detention has not been set aside by a court of competent jurisdiction;

(v) to any person notified under sub-section (2) of section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

96. (1) The Central Government may, from time to time, issue such orders, instructions and directions to the authorities, as it may deem fit, for the proper administration of this Scheme, and such authorities, and all other persons employed in the execution of this Scheme shall observe and follow such orders, instructions and directions of the Central Government.

Power of Central Government to issue directions.

Provided that no such orders, instructions or directions shall be issued so as to require any designated authority to dispose of a particular case in a particular manner.

(2) Without prejudice to the generality of the foregoing power, the Central Government may, if it considers necessary or expedient so to do, for the purpose of proper and efficient administration of the Scheme and collection of revenue, issue, from time to time, general or special orders in respect of any class of cases, setting forth directions or instructions as to the guidelines, principles or procedures to be followed by the authorities in the work relating to administration of the Scheme and collection of revenue and any such order may, if the Central Government is of the opinion that it is necessary in the public interest so to do, be published in the prescribed manner.

97. (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

98. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which a declaration may be made under section 88 and the manner in which such declaration may be verified;

(b) the form of certificate which may be granted under sub-section (1) of section 90;

(c) the manner in which the orders may be published under sub-section (2) of section 96;

45 of 1960.
46 of 1973.
61 of 1985.
28 of 1987.
49 of 1988.

52 of 1974.

27 of 1992.

(d) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) The Central Government shall cause every rule made under this Scheme to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 87(h)]

1. The Agricultural Produce Cess Act, 1940.
2. The Coffee Act, 1942.
3. The Mica Mines Labour Welfare Fund Act, 1946.
4. The Rubber Act, 1947.
5. The Industries (Development and Regulation) Act, 1951.
6. The Salt Cess Act, 1953.
7. The Tea Act, 1953.
8. The Medicinal and Toilet Preparations (Excise Duties) Act, 1955.
9. The Additional Duties of Excise (Goods of Special Importance) Act, 1957.
10. The Mineral Products (Additional Duties of Excise and Customs) Act, 1958.
11. The Sugar Export Promotion Act, 1958.
12. The Sugar (Special Excise Duty) Act, 1959.
13. The Sugar (Regulation of Production) Act, 1961.
14. The Textiles Committee Act, 1963.
15. The Produce Cess Act, 1966.
16. The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972.
17. The Marine Products Export Development Authority Act, 1972.
18. The Coal Mines (Conservation and Development) Act, 1974.
19. The Oil Industry (Development) Act, 1974.
20. The Tobacco Cess Act, 1975.
21. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976.
22. The Beedi Workers Welfare Cess Act, 1976.
23. The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978.
24. The Sugar Cess Act, 1982.
25. The Jute Manufacturers Cess Act, 1983.
26. The Agricultural and Processed Food Products Export Cess Act, 1985.
27. The Spices Cess Act, 1986.
28. Any other enactment imposing the auxiliary duty of customs or the special duty of excise.

CHAPTER V

INDIRECT TAXES

Customs

62 of 1962.

99. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 25, after sub-section (3), the following sub-sections shall be inserted, namely:— Amendment of section 25.

"(4) Every notification issued under sub-section (1) shall,—

(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;

(b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations of the Board, New Delhi.

(5) Notwithstanding anything contained in sub-section (4), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force."

100. In section 27 of the Customs Act, in sub-section (1), the *Explanation* shall be renumbered as *Explanation I* and after *Explanation I* as so renumbered, the following *Explanation* shall be inserted, namely:— Amendment of section 27.

"*Explanation II*.— Where any duty is paid provisionally under section 18, the limitation of one year or six months, as the case may be, shall be computed from the date of adjustment of duty after the final assessment thereof."

101. In the Customs Act, for sections 53 to 55, the following sections shall be substituted, namely:— Substitution of new sections for sections 53 to 55.

"53. Subject to the provisions of section 11, any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or any customs station may be allowed to be so transited without payment of duty. Transit of certain goods without payment of duty.

54. (1) Where any goods imported into a customs station are intended for transhipment, a bill of transhipment shall be presented to the proper officer in the prescribed form. Transhipment of certain goods without payment of duty.

(2) Subject to the provisions of section 11, where any goods imported into a customs station are mentioned in the import manifest or the import report, as the case may be, as for transhipment to any place outside India, such goods may be allowed to be so transhipped without payment of duty.

(3) Where any goods imported into a customs station are mentioned in the import manifest or the import report, as the case may be, as for transhipment—

15 of 1908.

(a) to any major port as defined in the Indian Ports Act, 1908, or the customs airport at Mumbai, Calcutta, Delhi or Chennai or any other customs port or customs airport which the Board may, by notification in the Official Gazette, specify in this behalf, or

(b) to any other customs station and the proper officer is satisfied that the goods are bonafide intended for transhipment to such customs station,

the proper officer may allow the goods to be transhipped, without payment of duty, subject to such conditions as may be prescribed for the due arrival of such goods at the customs station to which transhipment is allowed.

55. Where any goods are allowed to be transited under section 53 or transhipped under sub-section (3) of section 54 to any customs station, they shall, on their arrival at such station, be liable to duty and shall be entered in like manner as goods are entered on the first importation thereof and the provisions of this Act and any rules and regulations shall, so far as may be, apply in relation to such goods." Liability of duty on goods transited under section 53 or transhipped under section 54.

102. In the Customs Act, after Chapter XIV, the following Chapter shall be inserted, namely:— Insertion of new Chapter XIV A.

CHAPTER XIV A

SETTLEMENT OF CASES

127A. In this Chapter, unless the context otherwise requires,— Definitions.

(a) "Bench" means a Bench of the Settlement Commission;

(b) "case" means any proceeding under this Act or any other Act for the levy, assessment and collection of customs duty, or any proceeding by way of appeal or revision in connection with such levy, assessment or collection, which may be pending before a proper officer or the Central Government on the date on which an application under sub-section (1) of section 127B is made:

Provided that where any appeal or application for revision has been preferred after the expiry of the period specified for the filing of such appeal or application for revision under this Act and which has not been admitted, such appeal or revision shall not be deemed to be a proceeding pending within the meaning of this clause;

(c) "Chairman" means the Chairman of the Settlement Commission;

(d) "Commissioner (Investigation)" means an officer of the customs or a Central Excise Officer appointed as such Commissioner to conduct inquiry or investigation for the purposes of this Chapter;

(e) "Member" means a Member of the Settlement Commission and includes the Chairman and the Vice-Chairman;

(f) "Settlement Commission" means the Customs and Central Excise Settlement Commission constituted under section 32 of the Central Excise Act, 1944; and

1 of 1944.

(g) "Vice-Chairman" means a Vice-Chairman of the Settlement Commission.

Application for
settlement of
cases.

127B. (1) Any importer, exporter or any other person (hereafter in this Chapter referred to as the applicant) may, at any stage of a case relating to him, make an application in such form and in such manner as may be specified by rules, and containing a full and true disclosure of his duty liability which has not been disclosed before the proper officer, the manner in which such liability has been incurred, the additional amount of customs duty accepted to be payable by him and such other particulars as may be specified by rules including the particulars of such dutiable goods in respect of which he admits short levy on account of misclassification or otherwise of goods, to the Settlement Commission to have the case settled and such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless—

(a) the applicant has filed a bill of entry, or a shipping bill, in respect of import or export of goods, as the case may be, or a show cause notice has been issued to him by the proper officer;

(b) the additional amount of duty accepted by the applicant in his application exceeds two lakh rupees:

Provided further that no application shall be entertained by the Settlement Commission under this sub-section in cases which are pending in the Appellate Tribunal or any Court:

Provided also that no application under this sub-section shall be made in relation to goods to which section 123 applies or to goods in relation to which any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 has been committed:

61 of 1985.

Provided also that no application under this sub-section shall be made for the interpretation of the classification of the goods under the Customs Tariff Act, 1975.

61 of 1975.

(2) Where any dutiable goods, books of account, other documents or any sale proceeds of the goods have been seized under section 110, the applicant shall not be entitled to make an application under sub-section (1) before the expiry of one hundred and eighty days from the date of the seizure.

(3) Every application made under sub-section (1) shall be accompanied by such fees as may be specified by rules.

(4) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

Procedure on
receipt of
application
under section
127B.

127C. (1) On receipt of an application under section 127B, the Settlement Commission shall call for a report from the Commissioner of Customs having jurisdiction and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission may, by order, allow the application to be proceeded with or reject the application:

Provided that an application shall not be rejected under this sub-section, unless an opportunity has been given to the applicant of being heard:

Provided further that the Commissioner of Customs shall furnish such report within a period of one month of the receipt of the communication from the Settlement Commission, failing which it shall be presumed that the Commissioner of Customs has no objection to such application; but he may raise objections at the time of hearing fixed by the Settlement Commission for admission of the application and the date of such hearing shall be communicated by the Settlement Commission to the applicant and the Commissioner of Customs within a period not exceeding two months from the

date of receipt of such application, unless the presiding officer of the Bench extends the said period of two months, after recording the reasons in writing.

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the Commissioner of Customs having jurisdiction.

(3) Subject to the provisions of sub-section (4), the applicant shall, within thirty days of the receipt of a copy of the order under sub-section (1) allowing the application to be proceeded with, pay the amount of additional duty admitted by him as payable and shall furnish proof of such payment to the Settlement Commission.

(4) If the Settlement Commission is satisfied, on an application made under sub-section (1) that the applicant is unable for good and sufficient reasons to pay the amount referred to in sub-section (3), within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments, if the applicant furnishes adequate security for the payment thereof.

(5) Where the additional amount of customs duty referred to in sub-section (3) is not paid by the applicant within the time specified or extended period, as the case may be, the Settlement Commission may direct that the amount which remains unpaid, together with simple interest at the rate of eighteen per cent. per annum or at the rate notified by the Board from time to time on the amount remaining unpaid, be recovered as the sum due to the Central Government by the proper officer having jurisdiction over the applicant in accordance with the provisions of section 142.

(6) Where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Commissioner of Customs having jurisdiction and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Commissioner (Investigation) to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.

(7) After examination of the records and the report of the Commissioner of Customs received under sub-section (1), and the report, if any, of the Commissioner (Investigation) of the Settlement Commission under sub-section (6), and after giving an opportunity to the applicant and to the Commissioner of Customs having jurisdiction to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner of Customs or the Commissioner (Investigation) under sub-section (1) or sub-section (6);

1 of 1944.

(8) Subject to the provisions of section 32A of the Central Excise Act, 1944, the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (7) and, in relation to the passing of such order, the provisions of section 32D of the Central Excise Act, 1944 shall apply.

(9) Every order passed under sub-section (7) shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud, or misrepresentation of facts.

(10) Where any duty payable in pursuance of an order under sub-section (7) is not paid by the applicant within thirty days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such duty or has allowed payment thereof by instalments, the applicant shall be liable to pay simple interest at the rate of eighteen per cent. per annum or at such other rate as notified by the Board on the amount remaining unpaid from the date of expiry of the period of thirty days aforesaid.

(11) Where a settlement becomes void as provided under sub-section (9) the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and proper officer may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the date of the receipt of communication that the settlement became void.

127D. (1) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in such manner as may be specified by rules.

(2) Every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect from the date the sums due to the Central Government for which such attachment is made are discharged by the applicant and evidence to that effect is submitted to the Settlement Commission.

Power of Settlement Commission to order provisional attachment to protect revenue.

Power of Settlement Commission to reopen completed proceedings.

127E. If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act before application for settlement under section 127B was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also:

Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of five years from the date of application under sub-section (1) of section 127B.

Power and procedure of Settlement Commission.

127F. (1) In addition to the powers conferred on the Settlement Commission under Chapter V of the Central Excise Act, 1944, it shall have all the powers which are vested in an officer of the customs under this Act or the rules made thereunder.

1 of 1944.

(2) Where an application made under section 127B has been allowed to be proceeded with under section 127C, the Settlement Commission shall, until an order is passed under sub-section (7) of section 127C, have, subject to the provisions of sub-section (6) of that section, exclusive jurisdiction to exercise the powers and perform the functions of any officer of customs or Central Excise Officer as the case may be, under this Act or in the Central Excise Act, 1944, as the case may be, in relation to the case.

1 of 1944.

(3) In the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matter other than those before the Settlement Commission.

(4) The Settlement Commission shall, subject to the provisions of Chapter V of the Central Excise Act, 1944 and this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers, or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

1 of 1944.

Inspection, etc., of reports.

127G. No person shall be entitled to inspect, or obtain copies of, any report made by any officer of the Customs to the Settlement Commission; but the Settlement Commission may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of such fee as may be specified by rules:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on record against him in any such report, the Settlement Commission shall, on an application made in this behalf, and on payment by such person of such fee as may be specified by rules, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

Power of Settlement Commission to grant immunity from prosecution and penalty.

127H. (1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 127B has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his duty liability, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also either wholly or in part from the imposition of any penalty, fine and interest under this Act, with respect to the case covered by the settlement:

45 of 1860.

Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 127B.

(2) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under sub-section (7) of section 127C within the time specified in such order or within such further time as may be allowed by the Settlement Commission, or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(3) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particulars, material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

Power of Settlement Commission to send a case back to the proper officer.

127I. (1) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under section 127B has not co-operated with the Settlement Commission in the proceedings before it, send the case back to the proper officer who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 127B had been made.

(2) For the purpose of sub-section (1), the proper officer shall be entitled to use all the materials and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such proper officer or held or recorded by him in the course of the proceedings before him.

(3) For the purposes of the time limit under section 28 and for the purposes of interest under section 28AA, in a case referred to in sub-section (1), the period commencing on and from the date of the application to the Settlement Commission under section 127B and ending with the date of receipt by the officer of customs of the order of the Settlement Commission sending the case back to the officer of customs shall be excluded.

127J. Every order of settlement passed under sub-section (7) of section 127C shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

Order of settlement to be conclusive.

127K. Any sum specified in an order of settlement passed under sub-section (7) of section 127C may, subject to such conditions, if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered as sums due to the Central Government in accordance with the provisions of section 142, by the proper officer having jurisdiction over the applicant.

Recovery of sums due under order of settlement.

127L. Where,—

(i) an order of settlement passed under sub-section (7) of section 127C provides for the imposition of a penalty on the applicant under section 127B for settlement, on the ground of concealment of particulars of his duty liability; or

Bar on subsequent application for settlement in certain cases.

(ii) after the passing of an order of settlement under said sub-section (7) in relation to a case, such person is convicted of any offence under this Act in relation to that case; or

(iii) the case of such person is sent back to the proper officer by the Settlement Commission under section 127-I,

then such person shall not be entitled to apply for settlement under section 127B in relation to any other matter.

127M. Any proceedings under this Chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code.

Proceedings before Settlement Commission to be judicial proceedings. Application of certain provisions of Central Excise Act. Additional duty of customs (motor spirit).

45 of 1860.

1 of 1944.

127N. The provisions of Chapter V of the Central Excise Act, 1944 in so far as it is not inconsistent with the provisions of this Chapter shall apply in relation to proceedings before the Settlement Commission under this Chapter."

103. (1) In the case of goods specified in the Second Schedule, being goods imported into India, there shall be levied and collected as an additional duty of customs an amount calculated at the rate set forth in the said Schedule.

(2) The additional duty of customs referred to in sub-section (1) shall be in addition to any other duties of customs chargeable on such goods under the Customs Act, or any other law for the time being in force.

(3) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the additional duty of customs leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

104. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act),—

Amendment of Act 51 of 1975.

(a) after section 3, the following section shall be inserted, namely:—

"3A. (1) Any article which is imported into India shall in addition be liable to a duty (hereafter in this section referred to as the special additional duty), which shall be levied at a rate to be specified by the Central Government, by notification in the Official Gazette, having regard to the maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India:

Special additional duty.

Provided that until such rate is specified by the Central Government, the special additional duty shall be levied and collected at the rate of eight per cent. of the value of the article imported into India.

Explanation.— In this sub-section, the expression "maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India" means the maximum sales-tax, local tax, other charges for the time being in force, which shall be leviable on a like article, if sold or purchased in India, or if a like article is not so sold or purchased which shall be leviable on the class or description of articles to which the imported article belongs.

(2) For the purpose of calculating under this section the special additional duty on any imported article, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962 or section 3 of this Act, be the aggregate of—

52 of 1962.

(i) the value of the imported article determined under sub-section (1) of section 14 of the Customs Act, 1962 or the tariff value of such article fixed under sub-section (2) of that section, as the case may be;

52 of 1962.

(ii) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but not including the special additional duty referred to in sub-section (1); and

52 of 1962.

(iii) the additional duty of customs chargeable on that article under section 3 of this Act.

(3) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(4) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties shall, so far as may be, apply to the duty chargeable under this section as they apply in relation to the duties leviable under that Act.

52 of 1962.

(5) Nothing contained in this section shall apply to any article, which is chargeable to additional duties levied under sub-section (1) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957.;

58 of 1957.

(b) the First Schedule shall be amended in the manner specified in the Third Schedule.

Excise

Amendment of section 4A. 105. In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 4A, for *Explanation 1*, the following *Explanation* shall be substituted, namely:—

1 of 1944.

'Explanation 1.— For the purposes of this section, "retail sale price" means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and includes all taxes local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like, as the case may be, and the price is the sole consideration for such sale.'

Amendment of section 5A. 106. In the Central Excise Act, in section 5A, after sub-section (4), the following sub-sections shall be inserted, namely:—

(5) Every notification issued under sub-section (1) shall,—

(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;

(b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations, Customs and Central Excise, New Delhi, under the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963.

54 of 1963.

(6) Notwithstanding anything contained in sub-section (5), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force."

Amendment of section 9. 107. In the Central Excise Act, in section 9, in sub-section (1), after clause (bbb), the following clause shall be inserted, namely:—

"(bbbb) contravenes any of the provisions of this Act or the rules made thereunder in relation to credit of any duty allowed to be utilised towards payment of excise duty on final products;"

Amendment of section 11B. 108. In the Central Excise Act, in section 11B, in the *Explanation*, in clause (B), after sub-clause (ee), the following sub-clause shall be inserted, namely:—

"(ab) in case where duty of excise is paid provisionally under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof,".

109. In the Central Excise Act, with effect from such date as the Central Government may, by Amendment or notification in the Official Gazette, appoint, in section 35B, in sub-section (1), in the first proviso, after section 35 B. clause (c), the following clause shall be inserted, namely:—

"(d) credit of any duty allowed to be utilised towards payment of excise duty on final products under the provisions of this Act or the rules made thereunder and such order is passed by the Commissioner (Appeals) on or after the date appointed under section 109 of the Finance (No. 2) Act, 1998;".

110. In the Central Excise Act, after section 30, the following Chapter shall be inserted, namely:— Insertion of new Chapter V.

CHAPTER V

SETTLEMENT OF CASES

31. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) "assessee" means any person who is liable for payment of excise duty assessed under this Act or any other Act and includes any producer or manufacturer of excisable goods or a registered person under the rules made under this Act, of a private warehouse in which excisable goods are stored;

(b) "Bench" means a Bench of the Settlement Commission;

(c) "case" means any proceeding under this Act or any other Act for the levy, assessment and collection of excise duty, or any proceeding by way of appeal or revision in connection with such levy, assessment or collection, which may be pending before a Central Excise Officer or Central Government on the date on which an application under sub-section (1) of section 32E is made:

Provided that where any appeal or application for revision has been preferred after the expiry of the period specified for the filing of such appeal or application for revision under this Act and which has not been admitted, such appeal or revision shall not be deemed to be a proceeding pending within the meaning of this clause;

(d) "Chairman" means the Chairman of the Settlement Commission;

(e) "Commissioner (Investigation)" means an officer of the customs or a Central Excise Officer appointed as such Commissioner to conduct inquiry or investigation for the purposes of this Chapter;

(f) "Member" means a Member of the Settlement Commission and includes the Chairman and the Vice-Chairman;

(g) "Settlement Commission" means the Customs and Central Excise Settlement Commission constituted under section 32; and

(h) "Vice-Chairman" means a Vice-Chairman of the Settlement Commission.

32. (1) The Central Government shall, by notification in the Official Gazette, constitute a Customs and Central Excise Settlement Commission.
Commission to be called the Customs and Central Excise Settlement Commission for the settlement of cases under this Chapter and Chapter XIVA of the Customs Act, 1962.

(2) The Settlement Commission shall consist of a Chairman and as many Vice-Chairmen and other Members as the Central Government thinks fit and shall function within the Department of the Central Government dealing with customs and central excise matters.

(3) The Chairman, Vice-Chairman and other Members of the Settlement Commission shall be appointed by the Central Government from amongst persons of integrity and outstanding ability, having special knowledge of, and experience in, administration of customs and central excise laws:

Provided that, where a member of the Board is appointed as the Chairman, Vice-Chairman or as a Member of the Settlement Commission, he shall cease to be a member of the said Board.

32A. (1) Subject to the other provisions of this Chapter, the jurisdiction, powers and authority of Jurisdiction and powers of Settlement Commission.
the Settlement Commission may be exercised by Benches thereof.

(2) Subject to the other provisions of this section, a Bench shall be presided over by the Chairman or a Vice-Chairman and shall consist of two other Members.

(3) The Bench for which the Chairman is the presiding officer shall be the principal Bench and other Benches shall be known as additional Benches.

(4) Notwithstanding anything contained in sub-section (1) and sub-section (2), the Chairman may authorise the Vice-Chairman or other Member appointed to one Bench to discharge also the functions of the Vice-Chairman or, as the case may be, other Member of another Bench.

(5) The principal Bench shall sit at Delhi and the Central Government shall, by notification in the Official Gazette, establish additional Benches at such places as it considers necessary.

(6) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person be the presiding officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the presiding officer or in the office of one or the other members of the Bench, the remaining Members may function as the Bench and if the presiding officer of the Bench is not one of the remaining Members, the senior among the remaining Members shall act as the presiding officer of the Bench:

Provided that if at any stage of the hearing of any such case or matter, it appears to the presiding officer that the case or matter is of such a nature that it ought to be heard of by a Bench consisting of three Members, the case or matter may be referred by the presiding officer of such bench to the Chairman for transfer to such Bench as the Chairman may deem fit.

(7) Notwithstanding anything contained in the foregoing provisions of this section, the Chairman may, for the disposal of any particular case, constitute a special Bench consisting of more than three Members.

(8) Subject to the other provisions of this Chapter, the special Bench shall sit at a place to be fixed by the Chairman.

Vice-Chairman to act as Chairman or to discharge his functions in certain circumstances.

32B. (1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Chapter to fill such vacancy, enters upon his office.

(2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the Central Government may, by notification in the Official Gazette, authorise in this behalf, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.

Power of Chairman to transfer cases from one Bench to another.

32C. On the application of the assessee or the Chief Commissioner or Commissioner of Central Excise and after giving notice to them, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to another Bench.

Decision to be by majority.

32D. If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Settlement Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Settlement Commission who have heard the case, including those who first heard it.

Application for settlement of cases.

32E. (1) An assessee may, at any stage of a case relating to him make an application in such form and in such manner as may be prescribed, and containing a full and true disclosure of his duty liability which has not been disclosed before the Central Excise Officer having jurisdiction, the manner in which such liability has been derived, the additional amount of excise duty accepted to be payable by him and such other particulars as may be prescribed including the particulars of such excisable goods in respect of which he admits short levy on account of misclassification or otherwise of such excisable goods, to the Settlement Commission to have the case settled and any such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless,—

(a) the applicant has filed monthly returns showing production, clearance and central excise duty paid in the prescribed manner;

(b) a show cause notice for recovery of duty issued by the Central Excise Officer has been received by the applicant; and

(c) the additional amount of duty accepted by the applicant in his application exceeds two lakh rupees:

Provided further that no application shall be entertained by the Settlement Commission under this sub-section in cases which are pending with the Appellate Tribunal or any Court:

Provided also that no application under this sub-section shall be made for the interpretation of the classification of excisable goods under the Central Excise Tariff Act, 1985.

(2) Where any excisable goods, books of account, other documents have been seized under the provisions of this Act or rules made thereunder, the assessee shall not be entitled to make an application under sub-section (1), before the expiry of one hundred and eighty days from the date of the seizure.

(3) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed.

(4) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

32F. (1) On receipt of an application under sub-section (1) of section 32E, the Settlement Commission shall call for a report from the Commissioner of Central Excise having jurisdiction and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission may, by order, allow the application to be proceeded with or reject the application: Procedure on receipt of an application under section 32E.

Provided that an application shall not be rejected under this sub-section, unless an opportunity has been given to the applicant of being heard:

Provided further that the Commissioner of Central Excise shall furnish such report within a period of one month of the receipt of the communication from the Settlement Commission, failing which it shall be presumed that the Commissioner of Central Excise has no objection to such application; but he may raise objections at the time of hearing fixed by the Settlement Commission for admission of the application and the date of such hearing shall be communicated by the Settlement Commission to the applicant and the Commissioner of Central Excise within a period not exceeding two months from the date of receipt of such application, unless the presiding officer of the Bench extends the time, recording the reasons in writing.

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the Commissioner of Central Excise having jurisdiction.

(3) Subject to the provisions of sub-section (4), the applicant shall within thirty days of the receipt of a copy of the order under sub-section (1) allowing the application to be proceeded with, pay the amount of additional duty admitted by him as payable and shall furnish proof of such payment to the Settlement Commission.

(4) If the Settlement Commission is satisfied, on an application made in this behalf by the assessee that he is unable for good and sufficient reasons to pay the amount referred to in sub-section (3), within the time specified in that sub-section, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments, if the assessee furnishes adequate security for the payment thereof.

(5) Where the additional amount of duty referred to in sub-section (3) is not paid by the assessee within the time specified or extended period, as the case may be, the Settlement Commission may direct that the amount which remains unpaid, together with simple interest at the rate of eighteen per cent. per annum or at the rate notified by the Central Board of Excise and Customs from time to time on the amount remaining unpaid, be recovered, as the sum due to Central Government by the Central Excise Officer having jurisdiction over the assessee in accordance with the provisions of section 11.

(6) Where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Commissioner of Central Excise having jurisdiction and after examination of such records, if the Settlement Commission is of the opinion that any further inquiry or investigation in the matter is necessary, it may direct the Commissioner (Investigation) to make or cause to be made such further inquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.

(7) After examination of the records and the report of the Commissioner of Central Excise received under sub-section (1), and the report, if any, of the Commissioner (Investigation) of the Settlement Commission under sub-section (6), and after giving an opportunity to the applicant and to the Commissioner of Central Excise having jurisdiction to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act, pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner of Central Excise and Commissioner (Investigation) under sub-section (1) or sub-section (6).

(8) Subject to the provisions of section 32A, the materials brought on record before the Settlement Commission shall be considered by the Members of the concerned Bench before passing any order under sub-section (7) and, in relation to the passing of such order, the provisions of section 32D shall apply.

(9) Every order passed under sub-section (7) shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud, or misrepresentation of facts.

(10) Where any duty payable in pursuance of an order under sub-section (7) is not paid by the assessee within thirty days of the receipt of a copy of the order by him, then, whether or not the Settlement Commission has extended the time for payment of such duty or has allowed payment thereof by instalments, the assessee shall be liable to pay simple interest at the rate of eighteen per cent. per annum or at such other rate as notified by the Central Board of Excise and Customs on the amount remaining unpaid from the date of expiry of the period of thirty days aforesaid.

(11) Where a settlement becomes void as provided under sub-section (9) the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the Central Excise Officer having jurisdiction may, notwithstanding anything contained in any other provision of this Act, complete such proceedings at any time before the expiry of two years from the date of the receipt of communication that the settlement became void.

Power of Settlement Commission to order provisional attachment to protect revenue.

32G. (1) Where, during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner as may be prescribed.

(2) Every provisional attachment made by the Settlement Commission under sub-section (1) shall cease to have effect from the date, the sums due to the Central Government for which such attachment is made are discharged by the applicant and evidence to that effect is submitted to the Settlement Commission.

Power of Settlement Commission to reopen completed proceedings

32H. If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act before application for settlement under section 32E was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also:

Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of five years from the date of application.

Powers and procedure of Settlement Commission.

32-I. (1) In addition to the powers conferred on the Settlement Commission under this Chapter, it shall have all the powers which are vested in a Central Excise Officer under this Act or the rules made thereunder.

(2) Where an application made under section 32E has been allowed to be proceeded with under section 32F, the Settlement Commission shall, until an order is passed under sub-section (7) of section 32F, have, subject to the provisions of sub-section (6) of that section, exclusive jurisdiction to exercise the powers and perform the functions of any Central Excise Officer, under this Act in relation to the case

(3) In the absence of any express direction by the Settlement Commission to the contrary, nothing in this Chapter shall affect the operation of the provisions of this Act in so far as they relate to any matters other than those before the Settlement Commission.

(4) The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers, or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

Inspection, etc., of reports.

32J. No person shall be entitled to inspect, or obtain copies of, any report made by any Central Excise Officer to the Settlement Commission; but the Settlement Commission may, in its discretion furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee:

Provided that, for the purpose of enabling any person whose case is under consideration to rebut any evidence brought on record against him in any such report, the Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee by such person, furnish him with a certified copy of any such report or part thereof relevant for the purpose.

Power of Settlement Commission to grant immunity from prosecution and penalty.

32K. (1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 32E has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his duty liability, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force and also either wholly or in part from the imposition of any penalty, fine and interest under this Act, with respect to the case covered by the settlement:

Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 32E.

(2) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under sub-section (7) of section 32F within the time specified in such order or within such further time as may be allowed by the Settlement Commission, or fails to comply with any other condition subject to which the immunity

was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(3) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particular material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

32L. (1) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under section 32E has not co-operated with the Settlement Commission in the proceedings before it, send the case back to the Central Excise Officer having jurisdiction who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 32E had been made.

Power of Settlement Commission to send a case back to the Central Excise Officer.

(2) For the purpose of sub-section (1), the Central Excise Officer shall be entitled to use all the materials and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such Central Excise Officer or held or recorded by him in the course of the proceedings before him.

(3) For the purposes of the time limit under section 11A and for the purposes of interest under section 11BB, in a case referred to in sub-section (1), the period commencing on and from the date of the application to the Settlement Commission under section 32E and ending with the date of receipt by the Central Excise Officer of the order of the Settlement Commission sending the case back to the Central Excise Officer shall be excluded.

32M. Every order of settlement passed under sub-section (7) of section 32F shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

Order of settlement to be conclusive.

32N. Any sum specified in an order of settlement passed under sub-section (7) of section 32F may, subject to such conditions if any, as may be specified therein, be recovered, and any penalty for default in making payment of such sum may be imposed and recovered as sums due to the Central Government in accordance with the provisions under section 11 by the Central Excise Officer having jurisdiction over the person who made the application for settlement under section 32E.

Recovery of sums due under order of settlement.

32-O. Where—

- (i) an order of settlement passed under sub-section (7) of section 32F provides for the imposition of a penalty on the person who made the application under section 32E for settlement on the ground of concealment of particulars of his duty liability; or
- (ii) after the passing of an order of settlement under the said sub-section (7) in relation to a case, such person is convicted of any offence under this Act in relation to that case; or
- (iii) the case of such person is sent back to the Central Excise Officer having jurisdiction by the Settlement Commission under section 32L,

Bar on subsequent application for settlement in certain cases.

then, he shall not be entitled to apply for settlement under section 32E in relation to any other matter.

32P. Any proceedings under this Chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code."

Proceedings before Settlement Commission to be judicial proceedings.

111. (1) In the case of goods specified in the Second Schedule, being goods manufactured in India, there shall be levied and collected as an additional duty of excise an amount calculated at the rate set forth in the said Schedule.

Additional duty of excise (motor spirit).

(2) The additional duty of excise referred to in sub-section (1) shall be in addition to any other duties of excise chargeable on such goods under the Central Excise Act, or any other law for the time being in force.

(3) The provisions of the Central Excise Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties, shall, as far as may be, apply in relation to the levy and collection of the additional duty of excise leviable under this section in respect of any goods as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules and regulations, as the case may be.

(4) The additional duty of excise leviable under sub-section (1) shall be for the purposes of the Union and the proceeds thereof shall not be distributed among the States.

112. The Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act) shall be amended in the manner specified in the Fourth Schedule.

Amendment of Act 5 of 1985.

Amendment of Act 58 of 1957. 113. The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act) shall be amended in the manner specified in the Fifth Schedule.

Amendment of Act 40 of 1978. 114. The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 [hereinafter referred to as the Additional Duties of Excise (Textiles and Textile Articles) Act], shall be amended in the manner specified in the Sixth Schedule.

Amendment of Act 18 of 1955. 115. In the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, in the Schedule, in Item No. 4, for the entry in the third column, the entry "fifty per cent. *ad valorem*," shall be substituted.

CHAPTER VI

SERVICE TAX

Amendment of Act 32 of 1994. 116. In the Finance Act, 1994, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(1) for section 65, the following section shall be substituted, namely:—

Definitions. '65. In this Chapter, unless the context otherwise requires,—

(1) "advertisement" includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas;

(2) "advertising agency" means any commercial concern engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant;

(3) "air travel agent" means any person engaged in providing any service connected with the booking of passage for travel by air;

(4) "Appellate Tribunal" means the Customs, Excise and Gold (Control) Appellate Tribunal constituted under section 129 of the Customs Act, 1962;

52 of 1962.

(5) "architect" means any person whose name is, for the time being, entered in the register of architects maintained under section 23 of the Architects Act, 1972 and also includes any commercial concern engaged in any manner, whether directly or indirectly, in rendering services in the field of architecture;

20 of 1972.

(6) "assessee" means a person liable to pay the service tax and includes his agent;

(7) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;

54 of 1963.

(8) "body corporate" shall have the meaning assigned to it in or under clause (7) of section 2 of the Companies Act, 1956;

1 of 1956.

(9) "cab" means a motor cab or maxi cab;

(10) "caterer" means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion;

(11) "Central Excise Officer" has the meaning assigned to it in clause (b) of section 2 of the Central Excise Act, 1944.

1 of 1944.

(12) "clearing and forwarding agent" means any person who is engaged in providing any service, either directly or indirectly, connected with the clearing and forwarding operations in any manner to any other person and includes a consignment agent;

(13) "consulting engineer" means any professionally qualified engineer or an engineering firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering;

(14) "courier agency" means a commercial concern engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;

(15) "credit rating agency" means any commercial concern engaged in the business of credit rating of any debt obligation or of any project or programme requiring finance, whether in the form of debt or otherwise, and includes credit rating of any financial obligation, instrument or security, which has the purpose of providing a potential investor or any other person any information pertaining to the relative safety of timely payment of interest or principal;

- 52 of 1962. (16) "custom house agent" means a person licensed, temporarily or otherwise, under the regulations made under sub-section (2) of section 146 of the Customs Act, 1962;
- 57 of 1972. (17) "general insurance business" has the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972;
- 3 of 1930. (18) "goods" has the meaning assigned to it in clause (7) of section 2 of the Sale of Goods Act, 1930;
- (19) "insurer" means any person carrying on the general insurance business in India;
- (20) "interior decorator" means any person engaged, whether directly or indirectly, in the business of providing by way of advice, consultancy, technical assistance or in any other manner, services related to planning, design or beautification of spaces, whether man-made or otherwise and includes a landscape designer;
- (21) "management consultant" means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation in any manner and includes any person who renders any advice, consultancy or technical assistance, relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of any organisation;
- 4 of 1982. (22) "mandap" means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 and includes any furniture, fixtures, light fittings and floor coverings therein let out for consideration for organising any official, social or business function;
- (23) "mandap keeper" means a person who allows temporary occupation of a mandap for consideration for organising any official, social or business function;
- (24) "manpower recruitment agency" means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment of manpower, to a client;
- (25) "market research agency" means any commercial concern engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services;
- 59 of 1988. (26) "maxi cab" has the meaning assigned to it in clause (22) of section 2 of the Motor Vehicles Act, 1988;
- (27) "mechanised slaughter house" means a commercial concern engaged in the business of slaughtering of animals with the aid of machines;
- 59 of 1988. (28) "motor cab" has the meaning assigned to it in clause (25) of section 2 of the Motor Vehicles Act, 1988;
- (29) "pager" means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages;
- 4 of 1938. (30) "policy holder" has the meaning assigned to it in clause (2) of section 2 of the Insurance Act, 1938;
- 38 of 1949. (31) "practising chartered accountant" means a person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the provisions of the Chartered Accountants Act, 1949 and includes any concern engaged in rendering services in the field of chartered accountancy;
- 23 of 1959. (32) "practising cost accountant" means a person who is a member of the Institute of Cost and Works Accountants of India and is holding a certificate of practice granted under the provisions of the Cost and Works Accountants Act, 1959 and includes any concern engaged in rendering services in the field of cost accountancy;
- 58 of 1980. (33) "practising company secretary" means a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 and includes any concern engaged in rendering services in the field of company secretaryship;
- (34) "prescribed" means prescribed by rules made under this Chapter;
- (35) "real estate agent" means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate and includes a real estate consultant;
- (36) "real estate consultant" means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate;

(37) "recognised stock exchange" has the meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956.

42 of 1956.

(38) "rent-a-cab scheme operator" means any person engaged in the business of renting of cabs;

(39) "securities" has the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.

42 of 1956.

(40) "security agency" means any commercial concern engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel;

(41) "service tax" means tax leviable under the provisions of this Chapter;

(42) "ship" means a sea-going vessel and includes a sailing vessel;

(43) "shipping line" means any person who owns or charters a ship and includes an enterprise which operates or manages the business of shipping;

(44) "steamer agent" means any person who undertakes, either directly or indirectly,—

(a) to perform any service in connection with the ship's husbandry or dispatch including the rendering of administrative work related thereto; or

(b) to book, advertise or canvass for cargo for or on behalf of a shipping line; or

(c) to provide container feeder services for or on behalf of a shipping line;

(45) "stock-broker" means a stock-broker who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(46) "sub-broker" means a sub-broker who has either made an application for registration or is registered as a sub-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(47) "subscriber" means a person to whom a telephone connection or a pager has been provided by the telegraph authority;

(48) "taxable service" means any service provided,—

(a) to an investor, by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;

(b) to a subscriber, by the telegraph authority in relation to a telephone connection;

(c) to a subscriber, by the telegraph authority in relation to a pager;

(d) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance business;

(e) to a client, by an advertising agency in relation to advertisements in any manner;

(f) to a customer, by a courier agency in relation to door-to-door transportation of time-sensitive documents, goods or articles;

(g) to a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;

(h) to a client, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods;

(i) to a shipping line, by a steamer agent in relation to a ship's husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or canvassing of cargo, including container feeder services;

(j) to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations in any manner;

(k) to a client, by a manpower recruitment agency in relation to the recruitment of manpower in any manner;

(l) to a customer, by an air travel agent in relation to the booking of passage for travel by air;

(m) to a client, by a mandap keeper in relation to the use of a mandap in any manner

Including the facilities provided to the client in relation to such use and also the services, if any, rendered as a caterer;

(n) to any person, by a tour operator in relation to a tour;

(o) to any person, by a rent-a-cab scheme operator in relation to the renting of a cab;

(p) to a client, by an architect in his professional capacity in any manner;

(q) to a client, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner;

(r) to a client, by a management consultant in connection with the management of any organisation in any manner;

(s) to a client, by a practising chartered accountant in his professional capacity, in any manner;

(t) to a client, by a practising cost accountant in his professional capacity, in any manner;

(u) to a client, by a practising company secretary in his professional capacity, in any manner;

(v) to a client, by a real estate agent in relation to real estate;

(w) to a client, by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity;

(x) to a client, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security;

(y) to a client, by a market research agency in relation to market research of any product, service or utility, in any manner;

(z) to a client, by an underwriter in relation to underwriting in any manner;

(za) to any person, by a mechanised slaughter house in relation to the slaughtering of bovine animals;

13 of 1985.

(49) "telegraph authority" has the meaning assigned to it in clause (6) of section 3 of the Indian Telegraph Act, 1885 and includes a person who has been granted a licence under the first proviso to sub-section (1) of section 4 of that Act;

(50) "tour" means a journey from one place to another irrespective of the distance between such places;

59 of 1988.

(51) "tourist vehicle" has the meaning assigned to it in clause (43) of section 2 of the Motor Vehicles Act, 1988;

59 of 1988.

(52) "tour operator" means any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act 1988 or the rules made thereunder;

(53) "underwriter" has the meaning assigned to it in clause (f) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

(54) "underwriting" has the meaning assigned to it in clause (g) of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

1 of 1944.

(55) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to duty of excise.;

(2) for section 66, the following section shall be substituted, namely:—

"66. (1) On and from the date of commencement of this Chapter, there shall be levied a tax Charge of (hereinafter referred to as the service tax), at the rate of five per cent. of the value of the taxable service tax. services referred to in sub-clauses (a), (b) and (d) of clause (48) of section 65 and collected in such manner as may be prescribed.

33 of 1996.

(2) With effect from the date notified under section 85 of the Finance (No. 2) Act, 1996, there shall be levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (c), (e) and (f) of clause (48) of section 65 and collected in such manner as may be prescribed.

26 of 1997.

(3) With effect from the date notified under section 88 of the Finance Act, 1997, there shall be

levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (g), (h), (i), (j), (k), (l), (m), (n) and (o) of clause (48) of section 65 and collected in such manner as may be prescribed.

(4) With effect from the date notified under section 116 of the Finance (No. 2) Act, 1998, there shall be levied a service tax at the rate of five per cent. of the value of the taxable services referred to in sub-clauses (p), (q), (r), (s), (t), (u), (v), (w), (x), (y) and (z) of clause (48) of section 65 and collected in such manner as may be prescribed.

(5) With effect from the date notified under section 116 of the Finance (No. 2) Act, 1998, there shall be levied a service tax at the rate of one thousand rupees per animal on the taxable service referred to in sub-clause (za) of clause (48) of section 65 and collected in such manner as may be prescribed.":

(3) In section 67,—

(i) in clause (b), for the word "received", the word "charged" shall be substituted;

(ii) in clause (c), for the word "received", the word "charged" shall be substituted;

(iii) clauses (l), (m) and (n) shall be omitted;

(iv) clauses (o), (p) and (q) shall respectively be relettered as clauses (l), (m) and (n) respectively;

(v) after clause (n) as so relettered, the following clauses shall be inserted, namely:—

"(o) in relation to the service provided by an architect to a client, shall be the gross amount charged by such architect from the client for services rendered in professional capacity in any manner;

(p) in relation to the service provided by an interior decorator to a client, shall be the gross amount charged by such decorator from the client for services rendered in relation to planning, design or beautification of spaces in any manner;

(q) in relation to the service provided by a management consultant to a client, shall be the gross amount charged by such consultant from the client for services rendered in connection with the management of any organization in any manner;

(r) in relation to the service provided by a practising chartered accountant to a client, shall be the gross amount charged by such accountant from the client for services rendered in professional capacity in any manner;

(s) in relation to the service provided by a practising cost accountant to a client, shall be the gross amount charged by such accountant from the client for services rendered in professional capacity in any manner;

(t) in relation to the service provided by a practising company secretary to a client, shall be the gross amount charged by such secretary from the client for services rendered in professional capacity in any manner;

(u) in relation to the service provided by a real estate agent to a client, shall be the gross amount charged by such agent from the client for services rendered in connection with the sale, purchase, leasing or renting of real estate including any advice, consultancy or technical assistance relating to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate;

(v) in relation to the service provided by a security agency to a client, shall be the gross amount charged by such agency from the client for services rendered in connection with the security of any property or person, and includes services of investigation, detection or verification of any fact or activity including services of providing security personnel;

(w) in relation to the service provided by a credit rating agency to a client, shall be the gross amount charged by such agency from the client for services rendered in connection with credit rating of any financial obligation, instrument or security in any manner;

(x) in relation to the service provided by a market research agency to a client, shall be the gross amount charged by such agency from the client for services rendered in connection with market research of any product, service or utility in any manner;

(y) in relation to the service provided by an underwriter to a client, shall be the gross

amount charged by such underwriter from the client for services rendered in relation to underwriting in any manner.”;

(4) for sections 68 to 71, the following sections shall be substituted, namely:—

“68. (1) Every person providing taxable service to any person shall pay service tax at the rate specified in section 66 in such manner and within such period as may be prescribed. Payment of service tax.

(2) Notwithstanding anything contained in sub-section (1), in respect of any taxable service notified by the Central Government in the Official Gazette, the service tax thereon shall be paid by such person and in such manner as may be prescribed at the rate specified in section 66 and all the provisions of this Chapter shall apply to such person as if he is the person liable for paying the service tax in relation to such service.

69. Every person liable to pay the service tax under this Chapter or the rules made thereunder shall, within such time and in such manner and in such form as may be prescribed, make an application for registration to the Central Excise Officer. Registration.

70. Every person liable to pay the service tax shall furnish or cause to be furnished to the Central Excise Officer, a return in such form and in such manner and at such frequency as may be prescribed. Furnishing of returns.

71. (1) For the purpose of making an assessment under this Chapter, the Central Excise Officer may serve on any person who has furnished a return under section 70, a notice requiring him to produce within such period as may be specified therein, such accounts, documents or other evidence as he may deem necessary for such assessment. Assessment.

(2) The Central Excise Officer, after considering such accounts, documents or other evidence, if any, obtained under sub-section (1) and after taking into account any relevant material which he has gathered, shall, by an order in writing, assess the value of the taxable service and the amount of service tax payable on the basis of such assessment.”;

(5) in section 72, for clause (a), the following clause shall be substituted, namely:—

“(a) any person fails to make the return under section 70, or”;

(6) in section 73,—

(a) for the word “quarter”, wherever it occurs, the words “prescribed period” shall be substituted;

(b) for the words, brackets and figures “serve on the assessee a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 70 and may proceed to assess or reassess the value of the taxable service, and the provisions of this Chapter shall, so far as may be, apply, as if the notice were a notice issued under that sub-section”, the words “serve on the assessee a notice and proceed to assess or reassess the value of the taxable service” shall be substituted;

(7) for sections 75 to 77, the following sections shall be substituted, namely:—

“75. Every person, liable to pay the tax in accordance with the provisions of section 68 or rules made thereunder, who fails to credit the tax or any part thereof to the account of the Central Government within the period prescribed, shall pay simple interest at the rate of one and one-half per cent. for every month or part of the month by which such crediting of the tax or any part thereof is delayed. Interest on delayed payment of service tax.

76. Any person, liable to pay service tax in accordance with the provisions of section 68 or the rules made thereunder, who fails to pay such tax shall pay in addition to paying such tax, and interest on that tax in accordance with the provisions of section 75, a penalty which shall not be less than one hundred rupees but which may extend to two hundred rupees for every day during which such failure continues, so, however, that the penalty under this clause shall not exceed the amount of service tax that he failed to pay. Penalty for failure to pay service tax.

77. If a person fails to furnish in due time the return which he is required to furnish under section 70 or the rules made thereunder, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees but which may extend to two hundred rupees for every week or part thereof during which such failure continues.”; Penalty for failure to furnish prescribed return.

(8) in section 82, for the words “If the Central Excise Officer has reason to believe”, the words “If the Commissioner of Central Excise has reason to believe” shall be substituted;

(9) in section 83, after the figures and letter “11B”, the figures and letters “11BB, 12A” shall be inserted;

(10) sections 87 to 92 shall be omitted;

(11) for section 93, the following section shall be substituted, namely:—

Power to grant exemption from service tax.

"93. (1) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt generally or subject to such conditions as may be specified in the notification, taxable service of any specified description from the whole or any part of the service tax leviable thereon.

(2) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt any taxable service of any specified description from the payment of whole or any part of the service tax leviable thereon, under circumstances of exceptional nature to be stated in such order."

(12) In section 94, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) collection and recovery of service tax under sections 66 and 68;
- (b) the time and manner and the form in which application for registration shall be made under section 69;
- (c) the form, manner and frequency of the returns to be furnished under section 70;
- (d) the form in which appeal under section 85 or under sub-section (6) of section 86 may be filed and the manner in which they may be verified;
- (e) the manner in which the memorandum of cross objections under sub-section (4) of section 86 may be verified;
- (f) any other matter which by this Chapter is to be or may be prescribed."

CHAPTER VII

MISCELLANEOUS

Omission of section 37 of Act 28 of 1981.

117. In the Export-Import Bank of India Act, 1981, section 37 shall be omitted with effect from the 1st day of April, 1989.

Amendment of Act 6 of 1898.

118. In the Indian Post Office Act, 1898, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the First Schedule, the following Schedule shall be substituted, namely:—

"THE FIRST SCHEDULE

(See section 7)

INLAND POSTAGE RATES

Letters

For a weight not exceeding twenty grams	Rs. 3.00
For every twenty grams, or fraction thereof, exceeding twenty grams	Rs. 3.00.

Letter-cards

For a letter-card	Rs. 1.50.
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Post cards (not being post cards containing printed communication or competition post cards)

Single	25 paise
Reply	50 paise.

(Post cards containing printed communication (not being competition post cards))

For a post card	Rs. 1.50.
-----------------	-----------

Explanation.—A post card shall be deemed to contain a printed communication, if any matter (except the name and address of, and other particulars relating to, the sender and the place and date of despatch) is recorded by printing or by cyclostyling or by any other mechanical process, not being typewriting, on any part of the post card except the right hand half of the address-side thereof.

Competition post cards

For a post card	Rs. 3.00.
-----------------	-----------

Explanation.—A post card shall be deemed to be a competition post card if it is used in response to any competition organised on or through television, radio, newspaper, magazine or any other media.

Book pattern and sample packets

For the first fifty grams or fraction thereof	Rs. 1.00
For every additional fifty grams, or fraction thereof, in excess of fifty grams	Rs. 2.00.

Registered newspapers

For a weight not exceeding fifty grams	15 paise
For a weight exceeding fifty grams but not exceeding one hundred grams	25 paise
For every additional one hundred grams, or fraction thereof, exceeding one hundred grams	10 paise.

In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—

For a weight not exceeding one hundred grams	25 paise.
For every additional one hundred grams, or fraction thereof, exceeding one hundred grams	10 paise:

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the Post Office.

Parcels

For a weight not exceeding five hundred grams	Rs. 10.00
For every five hundred grams, or fraction thereof, exceeding five hundred grams	Rs. 10.00*.

1 of 1998.

119. The Finance Act, 1998 is hereby repealed and shall be deemed never to have been enacted.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vi) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of Income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 40,000 | Nil; |
| (2) where the total income exceeds Rs. 40,000 but does not exceed Rs. 60,000 | 10 per cent. of the amount by which the total income exceeds Rs. 40,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 2,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 20,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000. |

Paragraph B

In the case of every co-operative society,—

Rates of Income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of Income-tax

On the whole of the total income 35 per cent.

Paragraph D

In the case of every local authority,—

Rate of Income-tax

On the whole of the total income 30 per cent.

Paragraph E

In the case of a company,—

Rates of Income-tax

- | | |
|--|-----------------------------------|
| I. In the case of a domestic company | 35 per cent. of the total income; |
| II. In the case of a company other than a domestic company,— | |

(i) on so much of the total income as consists of—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian

concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.

(//) on the balance, if any, of the total income 48 per cent.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	Rate of income-tax
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(//) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(///) on income by way of winnings from horse races	40 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities other than a security of the Central or State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and any rules made thereunder	
(vi) on any other income	20 per cent.;
(b) where the person is not resident in India—	
(i) In the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(C) on other income by way of long-term capital gains	20 per cent.;
(D) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(E) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(F) on income by way of winnings from horse races	40 per cent.;
(G) on the whole of other income	30 per cent.;
(//) In the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(B) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(C) on income by way of winnings from horse races	40 per cent.;
(D) on income by way of long-term capital gains	20 per cent.;
(E) on the whole of the other income	30 per cent.;
2. In the case of a company—	
(a) where the company is a domestic company—	
(i) on income by way of interest other than "Interest on Securities"	20 per cent.;
(//) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;

(iii) on income by way of winnings from horse races	40 per cent.;
(iv) on any other income	20 per cent.;
(b) where the company is not a domestic company—	
(i) on income by way of winnings from lotteries and crossword puzzles	40 per cent.;
(ii) on income by way of winnings from horse races	40 per cent.;
(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—	
(A) where the agreement is made before the 1st day of June, 1997	30 per cent.;
(B) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 28th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(vii) on income by way of long-term capital gains	20 per cent.;
(viii) on any other income	48 per cent.

Explanation.—For the purpose of item 1(b)(i) of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

PART III

RATES FOR CALCULATING OR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be calculated under the first proviso to sub-section (5) of section 132 of the Income-tax Act or charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 175 or sub-section (2) of section 176 of the said Act or deducted under section 192 of the said Act from income chargeable under the head "Salaries" or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section] shall be calculated, charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vi) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of Income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 50,000 | Nil; |
| (2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000 | 10 per cent. of the amount by which the total income exceeds Rs. 50,000; |
| (3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 60,000; |
| (4) where the total income exceeds Rs. 1,50,000 | Rs. 19,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 1,50,000. |

Paragraph B

In the case of every co-operative society,—

Rates of Income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 35 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of Income-tax

- | | |
|----------------------------------|--------------|
| On the whole of the total income | 35 per cent. |
|----------------------------------|--------------|

Paragraph D

In the case of every local authority,—

Rate of Income-tax

- | | |
|----------------------------------|--------------|
| On the whole of the total income | 30 per cent. |
|----------------------------------|--------------|

Paragraph E

In the case of a company,—

Rates of Income-tax

- | | |
|---|-----------------------------------|
| I. In the case of a domestic company | 35 per cent. of the total income; |
| II. In the case of a company other than a domestic company— | |
| (i) on so much of the total income as consists of,— | |

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

(ii) on the balance, if any, of the total income

48 per cent.

PART IV

[See section 2 (10)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income, then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1998, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1990 or the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1990, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997,

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(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1998.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than that previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1991 or the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998, is a loss, then, for the purposes of sub-section (9) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1991, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1992 or the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1992, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1993 or the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1993, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1994 or the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1994, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 1999.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1990 (12 of 1990), or of the First Schedule to the Finance (No. 2) Act, 1991 (49 of 1991), or of the First Schedule to the Finance Act, 1992 (18 of 1992), or of the First Schedule to the Finance Act, 1993 (38 of 1993), or of the First Schedule to the Finance Act, 1994 (32 of 1994), or of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No. 2) Act, 1996 (33 of 1996) or of the First Schedule to the Finance Act, 1997 (26 of 1997), shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be nil.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

[See sections 103(1) and 111(1)]

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
1	Motor spirit commonly known as petrol	Rupee one per litre

THE THIRD SCHEDULE

[See section 104 (b)]

In the First Schedule to the Customs Tariff Act,—

(1) In Chapter 8, in sub-heading No. 0808.20, for the entries in column (4) and column (5), the entries "120%" and "110%" shall respectively be substituted;

(2) In Chapter 13, in sub-heading Nos. 1302.19 and 1302.20, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(3) In Chapter 21, in sub-heading No. 2106.90, for the entry in column (4), the entry "185%" shall be substituted;

(4) In Chapter 22, in sub-heading Nos. 2207.10, 2208.20, 2208.30, 2208.40, 2208.50, 2208.60, 2208.70 and 2208.90, for the entry in column (4) occurring against each of them, the entry "245%" shall be substituted;

(5) In Chapter 27, in sub-heading No. 2709.00, for the entry in column (4), the entry "20%" shall be substituted;

(6) In Chapter 29,—

(i) in sub-heading No. 2905.11, for the entry in column (4), the entry "30%" shall be substituted;

(ii) in sub-heading No. 2918.14, for the entry in column (4), the entry "40%" shall be substituted;

(iii) in sub-heading No. 2933.71, for the entries in column (4) and column (5), the entries "25%" and "15%" shall respectively be substituted;

(7) In Chapter 33, in sub-heading No. 3302.10, for the entry in column (4), the entry "185%" shall be substituted;

(8) In Chapter 37, in sub-heading Nos. 3707.10 and 3707.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(9) In Chapter 38, in sub-heading No. 3818.00, for the entry in column (4), the entry "20%" shall be substituted;

(10) In Chapter 44,—

(i) in sub-heading Nos. 4404.10, 4404.20, 4405.00, 4406.10, 4406.90, 4407.10, 4407.24, 4407.25, 4407.26, 4407.29, 4407.91, 4407.92 and 4407.99, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(ii) in sub-heading Nos. 4410.11, 4410.19, 4410.90, 4411.11, 4411.19, 4411.21, 4411.29, 4411.31, 4411.39, 4411.91 and 4411.99, for the entry in column (4) occurring against each of them, the entry "40%" shall be substituted;

(11) In Chapter 48, in sub-heading Nos. 4802.10, 4802.20, 4802.30, 4802.40, 4802.51, 4802.52, 4802.53, 4802.60, 4803.00, 4804.11, 4804.19, 4804.21, 4804.29, 4804.31, 4804.39, 4804.41, 4804.42, 4804.49, 4804.51, 4804.52, 4804.59, 4805.10, 4805.21, 4805.22, 4805.23, 4805.29, 4805.30, 4805.40, 4805.50, 4805.60, 4805.70, 4805.80, 4806.10, 4806.20, 4806.30, 4806.40, 4807.10, 4807.90, 4808.10, 4808.20, 4808.30, 4808.90, 4809.10, 4809.20, 4809.90, 4810.11, 4810.12, 4810.21, 4810.29, 4810.31, 4810.32, 4810.39, 4810.91, 4810.99, 4811.10, 4811.21, 4811.29, 4811.31, 4811.39, 4811.40, 4811.90 and 4823.20, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(12) In Chapter 51, in sub-heading Nos. 5105.10, 5105.21, 5105.29, 5105.30 and 5105.40, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(13) In Chapter 69, in sub-heading Nos. 6903.10, 6903.20 and 6903.90, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(14) In Chapter 74, for the entry in column (4) occurring against all the sub-heading Nos. (except sub-heading Nos. 7401.10, 7401.20, 7402.00, 7403.11, 7403.12, 7403.13, 7403.19, 7403.21, 7403.22, 7403.23, 7403.29 and 7404.00), the entry "35%" shall be substituted;

(15) In Chapter 84,—

(i) in sub-heading Nos. 8407.31, 8407.32, 8407.33, 8407.34, 8408.20, 8409.91 and 8409.99, for the entry in column (4) occurring against each of them, the entry "30%" shall be substituted;

(ii) in sub-heading No. 8471.70, for the entry in column (4), the entry "10%" shall be substituted;

(iii) in sub-heading No. 8483.20, for the entry in column (4), the entry "10% plus Rs. 150 per kg." shall be substituted;

(16) In Chapter 85,—

(i) in sub-heading No. 8501.10, for the entry in column (4), the entry "20%" shall be substituted;

(ii) in sub-heading Nos. 8508.10, 8508.20, 8508.80 and 8508.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(iii) In sub-heading No. 8532.90, for the entry in column (4), the entry "30%" shall be substituted;

(iv) In sub-heading Nos. 8533.90 and 8541.90, for the entry in column (4) occurring against each of them, the entry "10%" shall be substituted;

(17) In Chapter 91, —

(i) In sub-heading Nos. 9108.11, 9108.12, 9108.19, 9108.20, 9108.91 and 9108.99, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

(ii) In sub-heading Nos. 9110.11, 9110.12, 9110.19 and 9110.90, for the entry in column (4) occurring against each of them, the entry "20%" shall be substituted;

THE FOURTH SCHEDULE

(See section 112)

PART I

In the Schedule to the Central Excise Tariff Act,—

(1) In Chapter 4,—

(i) for NOTE 4, the following NOTES shall be substituted, namely :—

'4. Heading No. 04.04 applies, *inter alia*, to butter-milk, curdled milk, cream, yogurt, whey, curd, and products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter or flavoured or containing added fruit or cocoa and includes fats and oils derived from milk (e.g. milkfat, butterfat and butteroil), dehydrated butter and ghee.

5. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture"

6. In this Chapter, "brand name" means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.;

(ii) in sub-heading No. 0401.13, for the entry in column (4), the entry "8%" shall be substituted;

(2) In Chapter 9, after NOTE 2, the following NOTES shall be inserted, namely:—

'3. Heading No. 09.03 covers spices, a group of vegetable products (including seeds, etc.), rich in essential oils and aromatic principles, and which, because of their taste, are mainly used as condiments. These products may be whole or in crushed or powdered form. The addition of other substances to spices shall not affect their inclusion in this heading provided the resulting mixtures retain the essential character of spices included in this heading. The heading also includes products commonly known as "masalas".

4. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".

5. In this Chapter, "brand name" means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.;

(3) In Chapter 11, in sub-heading No. 1102.00, for the entry in column (4), the entry "13%" shall be substituted;

(4) In Chapter 16, the following NOTES shall be inserted, namely:—

'1. In relation to products of this Chapter, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".

2. In this Chapter, "brand name" means a brand name, whether registered or not, that is to say, a name or a mark, such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person.;

(5) In Chapter 17, in sub-heading No. 1704.10, for the entry in column (3), the entry "- Gums, whether or not sugar coated (including chewing gum, bubblegum, and the like)" shall be substituted;

(6) In Chapter 21,—

(i) after NOTE 9, the following NOTE shall be inserted, namely:—

'10. Sub-heading Nos. 2108.91 and 2108.99 include sweet meats commonly known as "mishthans" or "mithai" or by any other name. They also include products commonly known as "namkeens", "mixtures", "bhujia", "chabena" or by any other name. Such products remain classified in these sub-headings irrespective of the nature of their ingredients.;

(ii) in sub-heading No. 2101.30, for the entry in column (4), the entry "8%" shall be substituted;

(7) In Chapter 24,—

(i) in sub-heading No. 2403.11, for the entry in column (4), the entry "Rs. 68 per thousand" shall be substituted;

(ii) in sub-heading No. 2403.12, for the entry in column (4), the entry "Rs. 252 per thousand" shall be substituted;

(iii) in sub-heading No. 2403.13, for the entry in column (4), the entry "Rs. 374 per thousand" shall be substituted;

(iv) in sub-heading No. 2403.14, for the entry in column (4), the entry "Rs. 612 per thousand" shall be substituted;

(v) in sub-heading No. 2403.15, for the entry in column (4), the entry "Rs. 816 per thousand" shall be substituted;

(8) in Chapter 25, in sub-heading Nos. 2504.21 and 2504.31, for the entry in column (4) occurring against each of them, the entry "Rs. 40 per square metre" shall be substituted;

(9) in Chapter 27, in sub-heading Nos. 2710.11, 2710.12, 2710.13 and 2710.19, for the entry in column (4) occurring against each of them, the entry "35%" shall be substituted;

(10) in Chapter 30, in sub-heading No. 3003.20, for the entry in column (4), the entry "8%" shall be substituted;

(11) in Chapter 32, in sub-heading No. 3215.10, for the entry in column (4), the entry "18%" shall be substituted;

(12) in Chapter 38, in sub-heading No. 3824.20, for the entry in column (4), the entry "Nil" shall be substituted;

(13) in Chapter 39, in sub-heading Nos. 3903.20, 3903.30, 3905.10, 3905.20, 3905.90, 3906.10, 3906.20, 3906.90, 3907.10, 3907.20, 3907.30, 3907.40, 3907.50, 3907.60, 3907.70, 3907.80, 3907.91, 3907.99, 3908.10, 3908.90, 3909.10, 3909.20, 3909.30, 3909.40, 3909.51, 3909.52, 3909.59, 3909.60, 3910.00, 3911.10, 3911.20, 3911.90, 3912.11, 3912.12, 3912.20, 3912.31, 3912.39, 3912.90, 3913.10, 3913.20, 3913.30, 3913.90 and 3914.00, for the entry in column (4) occurring against each of them, the entry "18%" shall be substituted;

(14) in Chapter 40, in sub-heading No. 4012.90, for the entry in column (4), the entry "30%" shall be substituted;

(15) in Chapter 48,—

(i) for NOTE 3, the following NOTE shall be substituted, namely:—

'3. For the purposes of this Chapter, "newsprint" means newsprint as defined by the Central Government by notification published in the Official Gazette.;

(ii) in sub-heading No. 4819.19, for the entry in column (4), the entry "13%" shall be substituted;

(16) in Chapter 51, in sub-heading No. 5106.11, for the entry in column (4), the entry "8%" shall be substituted;

(17) in Chapter 54, in sub-heading Nos. 5402.10, 5402.31, 5402.41, 5402.51 and 5402.61, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(18) in Chapter 64,—

(i) in NOTE 2, after clause (b), the following clause shall be inserted, namely:—

'(c) the expression "retail sale price" has the meaning assigned to it in section 4A of the Central Excise Act, 1944 (1 of 1944).;

(ii) in sub-heading No. 6401.12, for the entry in column (3), the entry "-- Of retail sale price not exceeding Rs. 125 per pair" shall be substituted;

(19) in Chapter 69, after NOTE 2, the following NOTE shall be inserted, namely:—

'3. In relation to products of heading Nos. 69.06, 69.07, 69.09, 69.10 and 69.11, the process of printing, decorating or ornamenting shall amount to "manufacture".;

(20) in Chapter 70, after NOTE 5, the following NOTE shall be inserted, namely:—

'6. In relation to products of heading Nos. 70.06, 70.07, 70.08, 70.10, 70.13 and 70.15, the process of printing, decorating or ornamenting shall amount to "manufacture".;

(21) in Chapter 82, in sub-heading No. 8215.00, for the entry in column (4), the entry "8%" shall be substituted;

(22) in Chapter 84, in sub-heading Nos. 8434.10 and 8434.90, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(23) in Chapter 85,—

(i) after NOTE 6, the following NOTE shall be inserted, namely:—

'7. For the purposes of this Chapter, the expression "retail sale price" has the meaning assigned to it in section 4A of the Central Excise Act, 1944 (1 of 1944).;

(ii) in sub-heading No. 8523.12, for the entry in column (4), the entry "13%" shall be substituted;

(iii) in sub-heading No. 8524.20, for the entry in column (3), the entry "- Software" shall be substituted;

(iv) in sub-heading No. 8524.32, for the entry in column (4), the entry "Nil" shall be substituted;

(v) in heading No. 85.24, sub-heading No. 8524.35 and the entries relating thereto shall be omitted;

(vi) in heading No. 85.27, sub-heading No. 8527.20 and the entries relating thereto shall be omitted;

(vii) in sub-heading No. 8539.10, for the entry in column (3), the entry "-Vacuum and gas filled bulbs of retail sale price not exceeding Rs. 20 per bulb" shall be substituted;

(24) in Chapter 87,—

(i) in sub-heading No. 8701.10, for the entry in column (4), the entry "8%" shall be substituted;

(ii) in sub-heading No. 8702.10, for the entry in column (4), the entry "30%" shall be substituted;

(iii) in sub-heading No. 8706.11, for the entry in column (4), the entry "8%" shall be substituted;

(iv) in sub-heading No. 8706.21, for the entry in column (4), the entry "30%" shall be substituted;

(25) in Chapter 90,—

(i) in sub-heading Nos. 9001.10, 9003.11 and 9003.19, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(ii) in sub-heading No. 9004.10, for the entry in column (4), the entry "13%" shall be substituted;

(iii) in sub-heading Nos. 9018.00, 9019.00, 9020.00, 9021.90 and 9022.10, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted;

(iv) in sub-heading No. 9032.80, for the entry in column (4), the entry "18%" shall be substituted;

(26) in Chapter 93, in sub-heading Nos. 9302.00, 9303.00, 9304.00, 9305.00, 9306.00 and 9307.00, for the entry in column (4) occurring against each of them, the entry "25%" shall be substituted;

(27) in Chapter 94, in sub-heading No. 9402.10, for the entry in column (4), the entry "13%" shall be substituted;

(28) in Chapter 96, in sub-heading No. 9607.00, for the entry in column (4), the entry "8%" shall be substituted.

PART II

Heading No.	Sub-heading No.	Description of Goods	Rate of duty
(1)	(2)	(3)	(4)

In the Schedule to the Central Excise Tariff Act,—

(a) in Chapter 4,—

(i) in heading No. 04.02, for sub-heading No. 0402.10 and the entries relating thereto, the following shall be substituted, namely:—

		In or in relation to the manufacture of which any process is ordinarily carried on with the aid of power :	
0402.11	--	Put up in unit containers and bearing a brand name	8%
0402.19	--	Other	Nil";

(ii) in heading No. 04.03, for sub-heading No. 0403.10 and the entries relating thereto, the following shall be substituted, namely:—

		- In or in relation to the manufacture of which any process is ordinarily carried on with the aid of power :	
0403.11	--	Put up in unit containers and bearing a brand name	8%
0403.19	--	Other	Nil";

(iii) for heading No. 04.04 and the entries relating thereto, the following shall be substituted, namely:—
"04.04

		OTHER DAIRY PRODUCE; EDIBLE PRODUCTS OF ANIMAL ORIGIN, NOT ELSEWHERE SPECIFIED OR INCLUDED	
		- Ghee :	
0404.11	--	Put up in unit containers and bearing a brand name	8%
0404.19	--	Other	Nil
0404.90	-	Other	Nil";

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(b) In Chapter 9,—

(i) for heading No. 09.02 and the entries relating thereto, the following shall be substituted, namely:—

"09.02	TEA, INCLUDING TEA BAGS AND TEA WASTE	
0902.10	- Put up in unit containers and bearing a brand name	8%
0902.90	- Other	Nil";

(ii) for heading No. 09.03 and the entries relating thereto, the following shall be substituted, namely:—

"09.03	SPICES	
0903.10	- Put up in unit containers and bearing a brand name	8%
0903.90	- Other	Nil";

(c) In Chapter 16, for heading No. 16.01 and the entries relating thereto, the following shall be substituted, namely:—

"16.01	PREPARATIONS OF MEAT, OF FISH OR OF CRUSTACEANS, MOLLUSCS OR OTHER AQUATIC INVERTEBRATES, INCLUDING SAUSAGES AND SIMILAR PRODUCTS, EXTRACTS AND JUICES, PREPARED OR PRESERVED FISH AND CAVIAR AND CAVIAR SUBSTITUTES	
1601.10	- Put up in unit containers and bearing a brand name	8%
1601.90	- Other	Nil";

(d) In Chapter 19, for heading No. 19.05 and the entries relating thereto, the following shall be substituted, namely:—

"19.05	BREAD, PASTRY, CAKES, BISCUITS AND OTHER BAKERS' WARES, WHETHER OR NOT CONTAINING COCOA, COMMUNION WAFERS, EMPTY CACHETS OF A KIND SUITABLE FOR PHARMACEUTICAL USE, SEALING WAFERS, RICE PAPER AND SIMILAR PRODUCTS	
	- Biscuits :	
1905.11	-- In or in relation to the manufacture of which any process is ordinarily carried on with the aid of power	8%
1905.19	-- Other	Nil
1905.20	- Cakes and pastry	8%
	- Waffles and wafers:	
1905.31	-- coated with chocolate or containing chocolate	18%
1905.39	-- Other	8%
1905.90	- Other	Nil";

(e) In Chapter 84,—

(i) for heading No. 84.52 and the entries relating thereto, the following shall be substituted, namely:—

"84.52	SEWING MACHINES, OTHER THAN BOOK-SEWING MACHINES OF HEADING NO. 84.40; FURNITURE, BASES AND COVERS SPECIALLY DESIGNED FOR SEWING MACHINES; SEWING MACHINE NEEDLES	
	- Sewing machines	
8452.11	-- Hand operated	Nil
8452.19	-- Other	8%
8452.20	- Sewing machine needles	Nil
8452.30	- Furniture bases and covers for sewing machines and parts thereof	Nil
8452.90	- Other parts of sewing machines	Nil";

(f) In Chapter 85,—

(i) In heading No. 85.24, for sub-heading No. 8524.34 and the entries relating thereto, the following shall be substituted, namely:—

"8524.34	-- Video cassettes	18%";
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(ii) for heading No. 85.28, sub-heading Nos. 8528.10 and 8528.90 and the entries relating thereto, the following heading, sub-headings and the entries shall be substituted, namely:—

"85.28	TELEVISION RECEIVERS (INCLUDING VIDEO MONITORS AND VIDEO PROJECTORS), WHETHER OR NOT INCORPORATING RADIO BROADCAST RECEIVERS OR SOUND OR VIDEO RECORDING OR REPRODUCING APPARATUS	
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8528.10	-	Colour television receivers, where—	18%
		(a) the retail sale price is declared on the package at the time of clearance from the factory of production; and	
		(b) the retail sale price declared is the sole consideration for the sale to the ultimate consumer	
8528.21	--	Colour television receivers, other; Of screen size upto 36 cm	Rs. 2000 per set
8528.22	--	Of screen size exceeding 36 cm but not exceeding 54 cm	Rs. 3000 per set
8528.23	--	Of screen size exceeding 54 cm but not exceeding 68 cm	Rs. 4000 per set
8528.24	--	Of screen size exceeding 68 cm	Rs. 6000 per set
8528.90	-	Other	18%.

THE FIFTH SCHEDULE

(See section 113)

In the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act,—

- (a) in sub-heading No. 2403.11, for the entry in column (4), the entry "Rs 32 per thousand" shall be substituted;
- (b) in sub-heading No. 2403.12, for the entry in column (4), the entry "Rs 118 per thousand" shall be substituted;
- (c) in sub-heading No. 2403.13, for the entry in column (4), the entry "Rs 176 per thousand" shall be substituted;
- (d) in sub-heading No. 2403.14, for the entry in column (4), the entry "Rs 288 per thousand" shall be substituted;
- (e) in sub-heading No. 2403.15, for the entry in column (4), the entry "Rs 384 per thousand" shall be substituted;
- (f) in sub-heading No. 2403.19, for the entry in column (4), the entry "Rs 470 per thousand" shall be substituted;
- (g) in sub-heading Nos. 5902.10, 5902.20 and 5902.90, for the entry in column (4) occurring against each of them, the entry "Rs. 10 per kg" shall be substituted.

THE SIXTH SCHEDULE

(See section 114)

In the Schedule to the Additional Duties of Excise (Textiles and Textile Articles) Act, against S. No. 2, for the entry in column (2), the following shall be substituted, namely:—

"Wool, that is to say, all goods falling within Chapter 51, other than fabrics of heading Nos. 51.10, 51.11 and 51.12".

RAGHBIR SINGH,
Secy. to the Govt. of India.

